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ABSTRACT

The Kentucky Education Reform Act of 1990 (KERA) requires the implementation of school-based decision making in all Kentucky schools by July 1996. The school-based decision making process offers the opportunity for parents, teachers, and principals to use their knowledge and judgment in deciding how to best help children learn in their schools. A school council (two parents, three teachers, and one principal or administrator), advised by the school's staff, will make policies on curriculum, instructional practices, schedules for the school's staff and students, uses of school space, discipline and classroom management, and extracurricular programs. Staff shall divide into committees according to their areas of interest. These areas may include, but are not limited to, grade levels, subject areas, and special programs. Seven goals for Kentucky student education are described. This document provides an overview of the laws and regulations governing school-based decision making and a representation of areas of disagreement in interpretation. Appendices include: (1) the text of KRS 160.345, specifying the required adoption of school councils for school-based decision making, the composition of councils, their responsibilities, exemptions, and discretionary fund; (2) funding formula (702 KAR 3:240); and (3) discussion of funding for education. A glossary is also included. (LAP)

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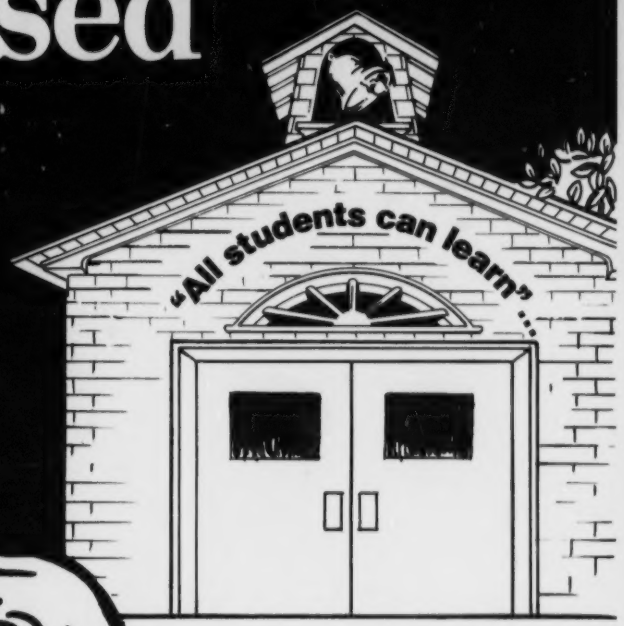

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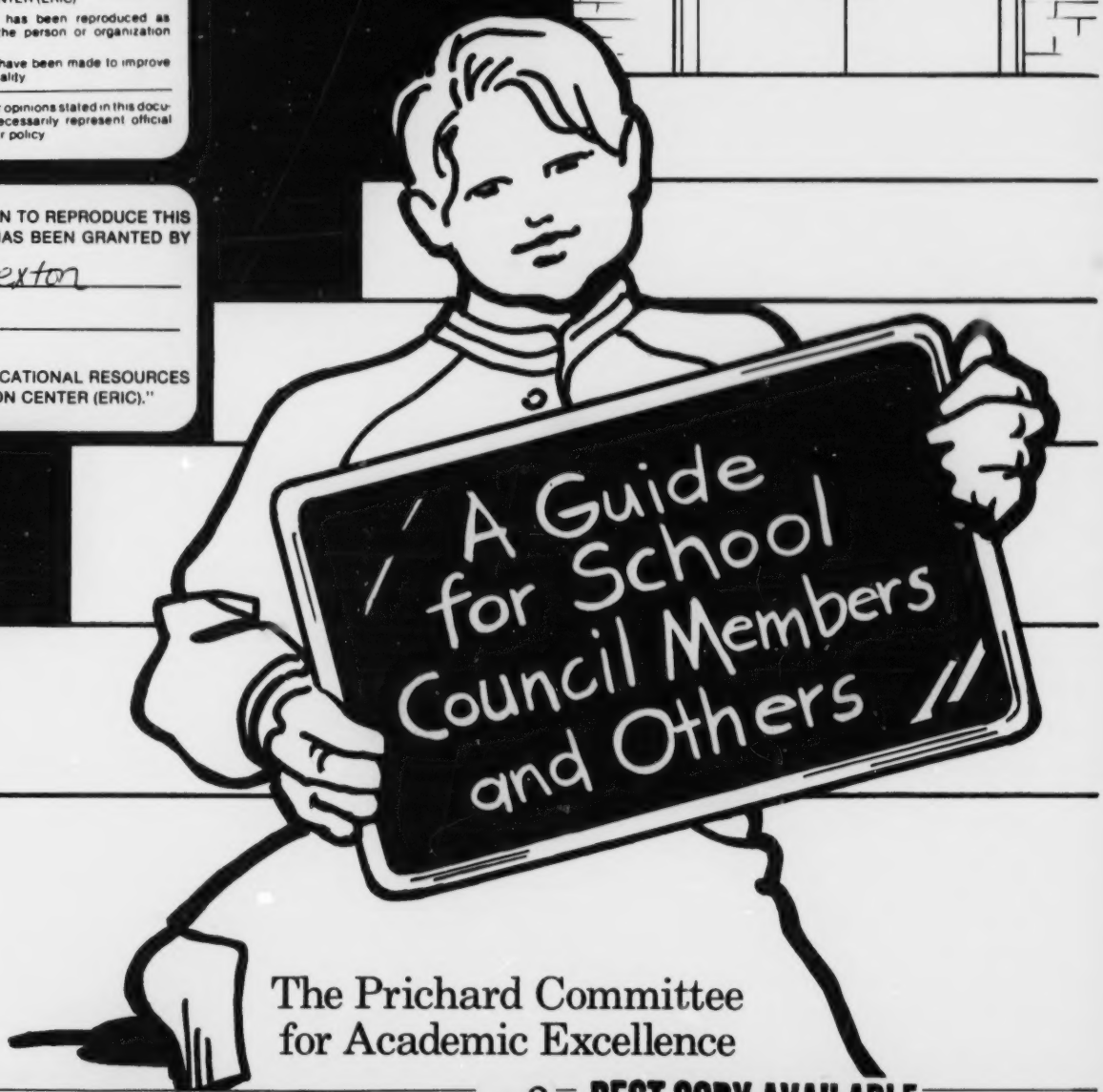

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The Prichard Committee
for Academic Excellence

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Goals for Each Kentucky Student

(1) Communication skills necessary to function in a complex and changing civilization;

(2) Knowledge to make economic, social, and political choices;

(3) Understanding of governmental processes as they affect the community, the state, and the nation;

(4) Sufficient self-knowledge and knowledge of his mental and physical wellness;

(5) Sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage;

(6) Sufficient preparation to choose and pursue his life's work intelligently; and

(7) Skills to enable him to compete favorably with students in other states.

Source: Kentucky Revised Statues, Section 158.645.

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School–Based Decision Making

A Guide for School Council Members and Others

Susan Perkins Weston

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Many others gave freely of their time in sharing ideas and information, reading drafts and providing invaluable corrections, suggestions and questions. In particular we wish to thank Bernie Carr, Director of the Division of School–Based Decision Making, Kentucky Department of Education; Penney Sanders, Director of the Office of Education Accountability and her staff; Sandy Deaton, Committee Staff Administrator, Legislative Research Commission and her staff; J. Gary Bale, State Department of Education; Carol Lamm and Lois Quilligan, school council members; and JoAnn Johnson and Samye Auerback, parents and friends of education.

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Robert F. Sexton
Executive Director
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Introduction

The Prichard Committee for Academic Excellence is dedicated to excellence in education at all levels. The Kentucky Education Reform Act of 1990 (KERA), which requires the implementation of school–based decision making in all schools by July 1996, gives Kentuckians the opportunity to significantly change the way children are educated.

School–based decision making offers teachers and principals the freedom and authority to use their professional knowledge and judgment in deciding how to best help children learn in their schools. Parents, who have high stakes in school success, have an unprecedented opportunity for meaningful school involvement. Engaging these parents and professionals in a meaningful way will be the biggest test, but it's also the key to the overall success of education reform in Kentucky. As all players—teachers, administrators, school board members, parents, students and the general public—struggle with the changes put in place by KERA, there will be need for fairness, dialogue, patience and acceptance in facing new roles and responsibilities.

This guide attempts to provide an overview of the laws and regulations governing school–based decision making and a fair representation of areas of disagreement in interpretation. Many questions remain to be answered. Experience, court decisions and time will offer some answers. In other cases, we believe that school councils and school district boards and offices can resolve most disagreements if they work in a cooperative and constructive spirit.

The Prichard Committee is committed to the successful implementation of school–based decision making. We view school council members as pioneers, opening up new frontiers in education. We hope this book will be of some help in the process.

1
The Concept of School–Based Decision Making

What is school–based decision making?

The school–based decision making process will give parents, teachers, and principals at each Kentucky public school substantial control over how that school operates. Its purpose is to permit each school to find the most effective ways to achieve the goals set for all students in the Kentucky Education Reform Act of 1990, sometimes referred to as "KERA".

Reference: KERA has become part of the Kentucky Revised Statutes. The section of KERA that establishes school–based decision making is KRS 160.345. Appendix A of this booklet includes the complete text of that section. ("KRS" is the standard abbreviation of "Kentucky Revised Statutes;" the number before the decimal point (in this case 160) indicates the chapter, or major section, of the Kentucky Revised Statutes one would look for in a law library, and the number after the decimal point (345 here) gives the section number to look for within that chapter.)

What decisions will be made at the school level?

A school council, advised by the school's staff, will make policies on curriculum, instructional practices, schedules for the school's staff and students, uses of school space, discipline and classroom management and extracurricular programs.

To help make these policies effective, councils will also decide:

- what instructional materials the school will use;
- what support services the school will provide for its students; and
- how many people the school will employ in each job classification.

The principal at each school will direct the implementation of council policies and select people to fill vacancies at the school, after consulting with the council. The council itself will select a new principal when that position comes open.

Sections 4–10 of this booklet discuss these responsibilities in detail. Taken together, these powers allow each school to develop its own distinctive program. Ideally, the programs school councils create will match the particular needs of each school's students, providing each pupil with the support he or she needs to excel.

Will schools be held accountable for student achievement?

Yes. KERA calls for the public schools to help each student acquire the seven key capacities that are listed as "Goals for Each Kentucky Student" inside the front cover of this booklet. It also mandates a new accountability system to measure how schools are doing.

Under that system, schools will be held accountable every two years. At the start of each two year cycle, each school will be asked to improve its percentage of successful students beyond its current level, moving up to a new threshold percentage set for it by the State Board for Elementary and Secondary Education. At the end of the cycle, schools that fall short of their thresholds will be required to take specific steps to improve, and schools that exceed their thresholds may be eligible for rewards. More information on this process can be found in Section 11 (pages 53–56, below).

The important point here is that schools will be held accountable for end results. Schools may find many ways to achieve those results, and school–based decision making gives them freedom to experiment and find approaches that work best for their students. If a school's choices turn out to be ineffective, the accountability system will allow state and local officials to step in and help the school improve. But as long as the accountability process shows that a school is making steady progress on its own, it will be free to continue the programs it designs for itself.

Reference: The accountability process is set up in KRS 158.6453 and 158.6455.

When will school–based decision making take effect?

School–based decision making will govern almost all Kentucky public schools by July 1, 1996. Before the 1996 deadline, the process will be phased in at those schools where faculty members vote to implement it sooner.

The only schools that will not have to implement school–based decision making by July 1, 1996, deadline are schools in districts that only have one school and schools that exceed their performance threshold in the state accountability process and hold a vote in which a majority of its faculty vote to return to district control.

Reference: The phase–in plan is found in KRS 160.345, subsection (5). See Appendix A, pages 71–72 below.

Who decides if a school will implement school–based decision making before July 1, 1996?

The school faculty can choose to implement school–based decision making by a two–thirds majority vote of all teachers in the school.

If no school in a district voted to adopt the process before July 1, 1991, the district board was required to pick one school to implement it in the 1991–92 school year.

2
The School Council

Membership Questions

How will school-based decision making work?

A school council of two parents, three teachers, and the principal or administrator will make many decisions for their school in the areas discussed in sections 4 through 10 (pages 11–52).

The principal, assisted by the school's staff, will be responsible for implementing council policies and administering the school. The school's staff will advise the council, working through the committees discussed in Section 3 (pages 9–10).

Of course, all decisions will be subject to the limitations that apply to all schools. These include laws and regulations, insurance limitations, and some other standards. Many of those limitations will be discussed below, and all of them should be explained to school councils by the local school board, its staff, or its attorney. KERA also directs local school boards to set district-wide policies in some specific areas, which will be discussed in Section 12 (pages 57–62).

Reference: The law setting up school councils is KRS 160.345, Subsection (2). See Appendix A, pages 69–71.

Who selects the members of the school council?

The parent members will be selected by *parents* who belong to the school's parent-teacher organization. If the school does not have a PTA or PTO, the parents must form a new organization to elect the parent members; other existing parent groups—such as booster groups for a band, sports team, or academic team—cannot conduct these elections. If more than one organization is formed, the largest organization's members shall elect the council members. Parent representatives must not be relatives of employees at that school.

The teacher members will be elected by a majority of the school's teachers. In this context, a "teacher" is any person whose public school position requires state certification, *except* principals, assistant principals, and head teachers.

District school boards have the power to adopt additional policies about how the school councils will be formed. Those policies cannot, however, interfere with the role given to councils by state law.

How long do members serve?

Parent and teacher members each serve one year terms and may be re–elected to additional terms. Principals serve as long as they hold their positions.

Can a school decide to change the membership of the council?

Yes, using one of two possible procedures.

Under the first procedure, the membership of councils may be increased if the change maintains the relative proportions of administrators, parents and teachers. That is, instead of one principal, two parents, and three teachers, a council might have two administrators, four parents, and six teachers, or three, six and nine, and so on. This type of proportional change does not require permission from the State Board for Elementary and Secondary Education. Instead, such a change can be made by a decision of the council itself.

The second procedure applies to any other changes, and it does require State Board permission. The law allows schools to apply to use alternative models of school–based decision making. For example, a school might want to elect a parent and a teacher to the council from each grade. Applications for this or other variations must be developed in consultation with representatives of parents, students, certified personnel, and teachers, and approved by two–thirds of the school faculty.

By regulation, the State Board has indicated that alternative model regulations must:

- "be based on the 3–2–1 statutory configuration such that parental membership shall not fall below one–third (1/3) of voting members;"
- set 1 year terms for council members; and
- only include student or classified members on the council if they are limited to a nonvoting, advisory role.

The only exception to these requirements is that schools that began school–based decision making before July 13, 1990, may apply to continue those arrangements.

Reference: Proportionate increases without State Board approval are governed by subsection (2)(a) of KRS 160.345 (see Appendix A, page 70). Other changes in council membership are governed by subsection (7) of KRS 160.345 and by 701 KAR 5:080. "KAR" is an abbreviation of "Kentucky Administrative Regulations." In a volume of those regulations, one would locate 701 KAR 5:080 by locating Title 701 and then looking for section 5:080.

Questions about how councils work

When should school councils meet?

School councils schedule their own meetings, but they have to obey Kentucky's Open Meetings Law, which protects the public's right to know about and attend meetings where government decisions are discussed or made.

How should meetings be scheduled to comply with the Open Meetings Law?

For regular meetings, the council needs to have a regular schedule, with meetings held at times and places that are convenient for the public. That schedule must be made available to the public.

Special meetings can be held at times not listed in the regular schedule, but only if the following requirements are met first:

- The meeting must be called by the principal or a majority of council members.
- Written notice must be delivered to each member of the council. The delivery must be made by mail or in person, at least 24 hours before the meeting.
- If local newspapers, news services, radio or television stations have asked in writing for notice of special meetings, they must also receive written notice 24 hours before the meeting, delivered by mail or in person.

Reference: The text of the Open Meetings Law can be found in KRS Sections 61.805 to 61.850.

Who may attend school council meetings?

The Open Meetings Law provides that government agency meetings must be open to the public and all interested persons may attend. Exceptions are allowed only under very narrow circumstances described below.

When can a school council meeting be closed to the public?

The Open Meetings Law allows closed meetings only to discuss topics specified in the law, and then only after following a required procedure for calling a closed meeting.

What topics can a school council discuss in a closed meeting?

The Open Meetings Law lists 11 topics permitted at closed meetings, but only two are likely to apply to school councils:

- **Discussion of lawsuits.** A session can be closed to discuss proposed cases as well as ones that have already been filed in court.
- **Decisions about a specific person's rights.** Closed meetings are permitted to discuss the appointment of an individual employee. However, if the affected person requests a public hearing, the meeting cannot be closed. This exception applies only when a particular person's situation is at issue; it does not permit discussion of general personnel matters in secret.

Reference: Topics permitted at closed meetings are listed in KRS Section 61.810.

What procedure is required before a closed session can be held?

The council must take three steps before it holds a closed session:

- **Announcement in open meeting.** A member of the council must announce in regular open meeting that a closed session will be held and explain the general nature of the business to be discussed and the reason the session will be closed;
- **Motion.** A member of the council must make a motion to hold a closed session to address that business; and
- **Vote.** The council must vote openly on whether to hold the closed session, and a majority must be for it.

Reference: The procedure for holding closed meetings are listed in KRS Section 61.815.

What can the council do once the closed session begins?

In a closed session, the council can only discuss the topics described in the announcement in open meeting that a closed session would be held. After discussing the issue as much as necessary, the council must return to an open meeting to make an official decision. No final action can be taken during the closed meeting. In addition, topics not listed in the announcement in open meeting cannot even be discussed.

How will school council meetings be run?

The principal must chair the meetings, and someone at the meeting (not necessarily a council member) must be responsible for taking accurate minutes. Otherwise, the council will set its own operating procedures.

Some councils will want to make their decisions by consensus. Those councils need to be careful that they agree on a definite statement of their final conclusion, so that the person taking the minutes can describe the decisions accurately and so that the principal has a clear statement of what is to be done.

Other councils may choose to vote on final decisions, but ideally those votes will also reflect general agreement about how the school should proceed, not only within the council, but among staff and parents more generally. To be most effective, each council decision needs as broad as possible a base of support.

It might be wise for each council to adopt bylaws addressing who will be responsible for taking minutes, how minutes will be approved, and any other procedural matters that the council wishes to include.

What records must the council keep?

The Open Meetings Law requires each council to keep accurate minutes, recording its votes and other actions. District school boards may require additional record-keeping. In addition to these requirements, councils will want to be sure their records describe all decisions accurately and fully, so that the principal will have clear guidance in implementing those decisions.

Reference: The minute-keeping requirement is found in KRS 61.835. The district school board's power to set additional records requirements is noted in KRS 160.345(3)(h). See Appendix A, page 71 below.

What must the council do to comply with Kentucky's Open Records Law?

The council must make its records available to anyone who asks during the school's regular office hours. In addition, the law requires each public agency to:

- **designate an official custodian** who has control of the records and makes them available to those who want to see them. Since this person will need to be available to receive requests, the principal or another school staff member without regular classroom duties might be a good choice. The custodian does not have to be a council member.
- **establish a procedure for requesting the records,** including where the records can be seen and any fee to be charged for making copies. Such fees must reflect actual costs of copying and cannot include costs of staff time.

Reference: The Open Records Law can be found in KRS 61.870 to 61.884.

Are school councils covered by district insurance against lawsuits?

Yes. KERA directs that the district school board shall make insurance coverage available to protect members of the school council from liability arising in the course of pursuing their duties as members of the council. Council members may wish to ask the district to show them the insurance policy provisions that give them

individual protection. It may also be important to make sure that the insurance will provide council members with their own lawyer if they are named as defendants in a suit; a lawyer who represented both the district and the council might face a conflict of interest if the two clients had different needs.

Reference: The insurance requirement appears in KRS 160.345, Subsection (4). See Appendix A, page 71.

Will council members be paid?

The principal and the teacher members will of course be paid their regular salaries. State regulations permit additional pay for work done outside regular school hours; this decision is up to the district school board.

Reference: The regulation permitting additional pay for work outside of regular hours is 702 KAR 3:070.

3
The Committees

What is the role of committees in school–based decision making?

As part of school–based decision making, KERA specifies that:

All certified staff at a school may be participants in the school–based decision making. The staff shall divide into committees according to their areas of interest, such as, but not limited to, grouped grade levels, subject areas, and special programs. Each committee shall elect by a majority of the committee a chair, who shall serve for a term of one (1) year. The committee shall submit its recommendations to the school council for consideration.

Each teacher has insight into how students are currently learning and thoughts on how the school might help them learn more effectively. The committees' work will be to make sure the council benefits from those insights and ideas.

Reference: The role of committees organized by a school's certified staff is specified by KRS 160.345(2)(d), which is quoted in full above.

What subjects should the committees cover?

The law leaves that decision up to the certified staff. Their selection of committee topics should reflect their interests and their knowledge of the school's needs. For instance, staff at one school might set up committees on each subject taught at the school. At another, one committee might address all curriculum issues, while others worked on cooperation between home and school, service to the community, and improvements in the school's schedule.

Can other people participate in the work of the committees?

Yes. For instance, a cook or lunchroom supervisor might make a significant contribution to a committee concerned with school climate. Inviting parents and other citizens to participate would expand their involvement in the school and, in some cases, might provide the school with additional expertise on a topic. For example, a businessperson might be able to identify changing local employment trends for the school's graduates, or a writer might suggest additional techniques for developing student language skills.

Who will lead the committees?

Each committee will elect a chairperson from its membership, who will serve for a term of one year and be eligible to seek reelection.

What are the responsibilities of committee members?

As set out in the statute, the committees make recommendations to the council. In preparing those recommendations, committee members should consider their own experience, the thoughts of their colleagues, and the comments of students, parents, and others. In some cases, they may want to undertake more formal review of data about the school. On other issues, they may want to consult with professional organizations, government agencies, and peers in other schools and districts or to review research on the effectiveness of different approaches to a particular school problem. Ideally, as the committees identify school needs and possible solutions, they will also be building school–wide understanding of their proposals; in the best cases, council approval of their recommendations will confirm a consensus already developed about how to improve the school.

Must committees follow the requirements of the Open Meetings Law?

Yes. The Open Meetings Law applies to meetings of "any public agency," and defines "public agency" to include school districts and "any committee, ad hoc committee, subcommittee, subagency or advisory body" of a school district, which seems clearly to include the committees. The requirements of the Open Meetings Law are described in Section 2 (pages 5–6 above), except that where that discussion mentions the council, one should substitute the committee, and where it mentions the principal, one should substitute the committee chair.

Reference: Bodies subject to the Open Meetings Law are defined in KRS 61.805, subsection (2).

Must the committees obey the requirements of the Open Records Law?

Yes. Its requirements are described in Section 2 (page 7 above). When a committee picks its custodian of records, it may be convenient to designate the person who also acts as custodian for the council.

Reference: Bodies subject to the Open Records Law are defined in KRS 61.870, subsection (1).

4
Curriculum and Instructional Practices

What is a school's curriculum?

A school's curriculum includes all the knowledge a school sets out to provide its students, both specific information and general learning skills. A school's planned curriculum could be quite specific regarding topics to cover, the order of coverage, and the methods of instruction. It could also be more general, allowing each teacher flexibility and discretion.

Reference: Subsection (2)(j)1 of KRS 160.345 directs councils to adopt policies in the area of "determination of curriculum, including needs assessment, curriculum development, alignment with state standards, technology utilization, and program appraisal within the local school board's policy." See Appendix A, page 70 below.

What are instructional practices?

Instructional practices are the methods a school uses to help students acquire knowledge and develop skills. For any part of the curriculum, several instructional approaches are possible. Permitting schools to implement innovative practices tailored to individual student needs is one of KERA's major objectives. Each school council is empowered to set policy on how topics will be taught in its school, based on its understanding of what will work for its students.

Once again, this policy can pick particular practices to use, or it can allow teachers substantial freedom to decide how to deal with their classes. Because these practices must be implemented by individual teachers, it may be especially important to seek a consensus of school staff on the issue before adopting a school council policy.

Reference: KRS 160.345, Subsection (2)(j)6, directs school councils to adopt policies in the area of "planning and resolution of issues regarding instructional practices." See Appendix A, page 71 below.

What are the goals of a school's curriculum and instructional practices?

Each school's curriculum and instructional practices should be designed to achieve the seven key student capacities and the six school goals established by KERA, as listed inside the front and back covers of this guide.

In the near future, school councils should have two additional documents to guide them:

- **The Council on School Performance Standards report on performance outcomes.** The performance outcomes will describe in measurable terms what is expected under each of KERA's six goals for students. In turn, the new state assessment system will be designed to measure students' success in achieving those outcomes, as discussed in Section 11 (pages 53–56 below).
- **The model curriculum framework.** By July 1, 1993, the State Board for Elementary and Secondary Education will publish a model curriculum framework that will reflect KERA's goals, outcomes and assessment strategies.

When these documents become available, councils will want to study them closely for insight into what the new accountability process will require and for information on approaches they might use to prepare to meet those requirements.

However, KERA does not mandate a single, comprehensive strategy for meeting these goals. Even the model framework is meant only as a guide for schools to use in developing their own programs, not as a mandate for all schools to follow to the letter; the law says that the framework is to "provide direction to local districts and schools as they develop their curriculum." KERA calls for school councils to choose the curriculum and instructional practices that will best help their particular students measure up to state standards.

Reference: The Council on School Performance Standards' duties appear in KRS 158.6451, subsections (1)–(3). The model curriculum framework is required KRS 158.6451, subsection (4).

What does a school's curriculum policy need to include?

Overall, the curriculum policy should identify the subjects and skills to be taught. KERA requires that five specific issues be included:

- How should each student's educational needs be assessed?
- How should the school go about developing and revising its curriculum?
- How should the school assure that the curriculum fulfills each of the state's mandated standards?
- What technology should be used in teaching?
- How should programs be appraised, both for the school's own purposes and to fulfill any local board requirements.

Reference: Subsection (2)(j)1 of KRS 160.345 specifies that council policies must address these five points.

Does the school's curriculum have to comply with the Program of Studies for Kentucky Schools?

Yes. Before KERA, the Program of Studies was one of the state's main guidelines for school curriculum. Although some parts of it are inconsistent with KERA, it is still in effect. School councils must either set curriculum policies within its limits or seek a waiver from the State Board for Elementary and Secondary Education.

For schools serving kindergarten through 6th grade, compliance with the Program of Studies is fairly simple. For those years, the Program of Studies provides a brief statement of the general subjects students must learn about, leaving councils with broad discretions about precise things to teach and ways of teaching them.

For grades 7 through 12, the requirements are more specific. The Program lists course titles and provides a paragraph description of what the course should include. All the courses do not have to be offered; schools can choose those that are most helpful for their students and the lists for each topic are long enough to give considerable flexibility.

Councils should also note that as of November, 1991, the Program of Studies is still being revised by the Kentucky Department of Education to make it consistent with KERA. If a particular requirement in that document seems to make it harder to help a school's students learn effectively, the council at that school may want to talk to the staff of the Curriculum Development division, to see if a revision will soon be made or might be considered based on the council's experience.

Finally, councils that find a definite conflict between the Program of Studies and a plan they think would work for their students may want to seek state permission to offer a course not listed in that document.

Reference: A copy of the Program of Studies and all revisions to it are sent to each school principal. The procedure for obtaining permission to offer courses not included in that document is listed in 704 KAR 10:050.

How can a council get permission to offer a program or course not listed in the Program of Studies?

The council should ask the district superintendent to submit an application to the state Department of Education requesting permission to offer an enrichment or experimental program or course. The application should state:

- the name of the program or course the school proposes to offer;
- reasons why the proposal is needed;
- the objectives of the proposal;
- the scope and content of the proposal;

- the staff, facilities, equipment, and materials needed and a statement that they will be available;
- a description of how the proposal deviates from the Program of Studies;
- the amount of credit to be given or the grade levels involved in the proposal;
- the planned method for evaluating the proposal; and
- the planned period over which the proposal will be conducted experimentally.

The Commissioner of Education will submit such proposals to the State Board for Elementary and Secondary Education, along with recommendations for approval or disapproval.

If the proposal is approved, a written evaluation must be submitted to the state department at the close of the school year.

Reference: Requests to offer courses not listed in the Program of Studies are governed by 704 KAR 10:050.

What legal limitations apply to curriculum and instructional practices?

Other than the Program of Studies, the particular mandates will depend on the kinds of students the school includes, but one or more of the following may apply:

- **Primary school programs.** Starting with the 1992–93 school year, Kentucky law requires that students be taught in an ungraded setting from kindergarten until they are ready to enter fourth grade.
- **Extended school services.** KERA requires that additional school time be arranged for pupils who need it to achieve statewide goals for students. These programs are subject to regulations set by the State Board for Elementary and Secondary Education.
- **Federal regulations for students with handicaps.** Federal law requires that each child with a handicap receive a "free and appropriate public education and related services designed to meet their unique needs." The law specifically mandates that an "individualized education plan" be developed, in consultation with the student's parents, for each covered child. If possible, the child must be placed in a regular classroom, a practice often called "mainstreaming." In planning the curriculum, it may be necessary to consider what special arrangements are needed to serve children with handicaps enrolled at the school.
- **State exceptional student requirements.** Each district has been required to submit a plan for educating these students to the State Board for Elementary and Secondary Education and then to implement that plan. School councils will need to keep their programs within the district plan unless plan revisions can be proposed and approved by the State Board based on new school council ideas.

- **Regulations attached to special funding the school receives.** If the school accepts money from federal or state programs for children with unusual needs, its curriculum offerings must comply with any regulations governing those programs. Federal Chapter 1 dollars to assist disadvantaged children and federal Education for the Handicapped Act funding, as well as state funding for remediation and for gifted and talented education are important examples of regulated funding sources. These regulations generally leave the school considerable discretion, but do require some distinct plan of offerings targeted to the qualifying students. More information on these programs can be found in Appendix C, pages 75–80 below.
- Any other laws or regulations that apply to Kentucky schools that have implemented school-based decision making.

The council should ask the district board or its attorney to identify and explain these rules. If a council needs additional assistance, the Kentucky Department of Education, the Office of Education Accountability, or a private attorney may be able to help.

References:
The primary school program is required by KRS 158.030.
Extended school services are governed by KRS 158.070 and by 704 KAR 3:390.
Education of handicapped students is governed by 20 USC 1400–1420 and 707 KAR 1:015–1:090. "USC" is an abbreviation of "United States Code": to find 20 USC 1412, one would look in volume 20 of the Code and find section 1412.
Education of exceptional students is governed by KRS 157.230 and by 707 KAR 1:015–1:090.
Regulations attached to special state and federal programs are discussed further in Appendix C (pages 75–80 below).

Can a school maintain separate programs for different types of students?

Yes, if such programs allow the school to serve individual needs better.

Of course, each program will need to be consistent with KERA's first goal for schools, which calls on them to "expect a high level of achievement of all students." This legal standard reflects growing research evidence that expecting some children to achieve less than their peers will often *cause* them to underachieve. Grouping students based on apparent differences in ability should therefore be approached with considerable caution, though it remains helpful in some cases.

Of course, there are many other reasons to offer a varied program. Specialized offerings can motivate the students and staff by tapping their interests and talents in ways that a single plan for everyone never could .

Where it seems feasible, school councils may even want to consider individualized offerings. For instance, students might develop their writing and library skills by researching topics they select themselves. If a particular student is struggling with a particular topic, he or she may need a specialized plan to master it. Similarly, a student who finds a subject especially easy can benefit from opportunity to work ahead.

In some cases, special programs may also be the only way to comply with regulations attached to funds a school receives to serve students with particular types of needs.

What is the Commonwealth Diploma Program?

Students can qualify for a Commonwealth Diploma by completing additional, more difficult coursework than they would need for regular high school graduation. The program thus offers able students an opportunity for additional academic achievement during their high school years. Secondary schools that decide to participate in the program must make a commitment to offer the courses their students will need to receive the diploma. High school councils may want to consider whether to make Commonwealth Diploma offerings part of their curriculum policy.

Reference: The Commonwealth Diploma Program is governed by 704 KAR 3:340.

How will extended school services be organized?

KERA mandates that students who need extra school time to master the statewide goals be given extended services. This additional time can be provided before or after school, on weekends, during the summer, or by any combination of the three. Again, councils will want to make sure that pupils in their schools receive services that are consistent with their regular curriculum.

Reference: Extended school services are mandated by KRS 158.070 and regulated by 704 KAR 3:390.

5
Schedules for Students, Staff and Space

What aspects of school scheduling does the council control?

Under KERA, the school council controls four schedule–related policies:

- **Assignment of all instructional and non–instructional staff time;**
- **Assignment of students** to classes and programs within the school;
- **Determination of the schedule of the school day and week,** subject to the beginning and ending times of the school day and school calendar year as established by the local board;
- **Determination of uses of school space during the school day;**

These four items are obviously interdependent: students and teachers need times and places to work together; noninstructional staff work needs to be arranged so that it doesn't interfere with learning, and so on.

Reference: Subsections (2)(j)2 through (2)(j)5 of KRS 160.345 direct councils to adopt policies in the four areas listed above. See Appendix A (page 70 below).

How should the council go about developing a school schedule?

Each school already has a schedule in place; maintaining that schedule would be the easiest policy, but would only be wise if the schedule is genuinely suited to school needs.

As the school council considers curriculum and instructional strategies, it may also see reasons to revise the schedule. For instance, as a technique for building reading skills, an elementary school may want to have a school–wide reading time, perhaps half an hour each day when every student chooses a book for independent reading. Another school may want to spend each Friday on shared special projects integrating several parts of the curriculum—one week a farm day featuring biology, social studies and math, and another week a Renaissance day integrating history, art, and writing.

Once the council has a broad outline in mind, it will need to consider the details of how to fit staff, students, and facilities into that plan. Of course, in some cases, the effort to fit these elements together will reveal a need to change the master plan.

What restrictions apply to a school's daily and weekly schedule?

The schedule policy a school council adopts needs to fit within the following limitations:

- **District board decisions** setting the annual school calendar, including days for professional development, holidays, mourning, and disaster, and also the total number of days school will be in session.
- **District board regulations** setting the opening and closing times for each school day.
- Any other laws or regulations that apply to Kentucky schools that have implemented school–based decision making.

The council should ask the district board or its attorney to identify and explain these rules. If the council needs additional guidance, it may want to consult the Department of Education, the Office of Education Accountability or a private attorney.

References:
District board control of the school calendar is established by KRS 158.070.
School council policies are subject to the district's opening and closing times under KRS 160.345, subsection (2)(j)4. See Appendix A (page 70 below).

What should a time policy for instructional staff include?

The council's policy should set guidelines regarding how many staff members should be working with each group of students during each period in the day. For different tasks and different kinds of students, these guidelines may vary widely, from one teacher supervising many pupils while they work independently, to three or four guiding small group discussions in corners of the same room. As always, the crucial consideration needs to be finding arrangements that will help the school's particular students develop the capacities KERA has set as goals for all Kentucky students.

In addition, the policy needs to provide each instructional staff member with time for non–teaching duties as described below.

What are instructional staff's non–teaching duties?

KERA mandates that teachers have "additional time" for the following non–teaching activities:

- professional development;
- instructional planning;
- curriculum development;
- outreach to students' families and the community; and
- work needed for school–based decision making.

There is no definite policy yet on how much specific additional time must be allowed, but the law does clearly provide that teachers must have some time beyond what local district and school policies gave them when KERA was enacted. Each local school board is therefore obligated to provide adequate funding and other resources to make that additional non–instructional time possible.

Reference: Additional noninstructional time for the purposes listed above is required by KRS 158.060(2).

Must school council policies abide by state class size rules?

No. Under KERA, those rules apply only to schools that have not implemented school–based decision making. In some cases, a school's staff may feel strongly that those rules are good ones, and the council may choose to adopt a policy setting limits like those in state law.

In other cases, schools may decide that some variation would help students learn. For instance, before KERA was enacted, a school that had 60 students ready for fifth grade would have had to create two classes of 29 students (the maximum class size), and then created some kind of mixed–grade class in order to provide for the two remaining students. Under KERA, a council might decide that adding one pupil to each of the two classes would be better for the affected students.

Reference: KRS 157.360, Subsections (4), (5), and (12) establish class size limits, and each subsection specifically states that the limits do not apply to schools that implement school–based decision making, as does 702 KAR 3:190, which regulates class size at other schools.

Do new teachers need to be scheduled differently than those with experience?

Yes. Under state law, first–year teachers (and out–of–state teachers with less than two years of successful teaching) must serve supervised internships. The school schedule may need to include time for these interns to work with their supervisory committees.

In addition, each supervisory committee includes a resource teacher. The Kentucky Department of Education selects the resource teachers and pays them a small stipend. Usually, though not always, the resource teacher works at the same school as the new teacher he or she is to help. The school schedule may also need to provide these resource teachers with time to observe and assist their teacher interns.

Reference: New teacher training requirements are established by KRS 161.030.

What effect will the new alternative certification programs have on instructional staff schedules?

Alternative certification programs train people for teaching who have not obtained a standard undergraduate teaching degree. Under KERA, districts have the option of establishing such programs in cooperation with a college or university. In these programs, participants will first complete a seminar and practicum. They will then teach for eighteen weeks on a half-time basis, and if successful, for another eighteen weeks on a full-time basis, all with close supervision and support.

If a school hires one or more teacher-candidates in such programs, special staffing plans will be needed. If experienced teachers in the school serve on the candidate's professional support team, they will also need time for their supervisory duties.

Reference: Alternative certification programs are governed by KRS 161.048.

What legal limitations apply to scheduling of instructional staff?

As already noted, KERA requires that teachers have additional nonteaching time. In addition, the following may apply:

- **Teacher lunch periods.** Each year, the district files a school calendar with the state Commissioner of Education, and that calendar includes a statement of how long students will be given for lunch. By state law, teachers must have a duty-free lunch period as long as the period given to students in that calendar. The school council or the principal can decide exactly when that period will be, provided it falls within the same time as student lunch periods. For example, if student lunches are scheduled between 11:30 and 1:00, and all students are given half an hour to eat, teachers must also have half an hour during that time.
- **Lunchroom supervision.** A teacher who is assigned lunchroom duty is legally guaranteed a significant period of free time: specifically, he or she must be freed from classroom duty for 55 minutes *plus* a number of minutes equal to the time spent supervising student lunches. In many schools, it turns out to be simpler to hire lunchroom monitors than to use teachers and comply with these requirements.
- **Contractual work rules.** Collective bargaining agreements between the district and its employees may set some rules on permitted schedules for covered staff members.
- Any other laws or regulations that apply to Kentucky schools that have implemented school-based decision making.

The council should ask the district board or its attorney to identify and explain these rules. If a council needs additional guidance, it may want to consult the Kentucky Department of Education, the Office of Education Accountability, or a private attorney.

Reference: Lunch periods and lunchroom supervision are governed by KRS 158.060(1).

How will the instructional staff time policy be implemented?

Based on the policies set by the council, the principal will determine specific work responsibilities for each member of the instructional staff, and provide each person with a schedule of time in and out of the classroom.

What does a schedule for non-instructional staff need to include?

Noninstructional staff range from counselors to custodians, including anyone who does not work directly with students on learning tasks. Their scheduling needs vary quite widely depending on their roles and the particular services school councils want them to provide. All of these personnel, however, should work in the ways that provide the best support for student learning. Their schedules should minimize interruptions of student–teacher educational time.

Some personnel may have responsibilities mandated by law or by the state or federal programs that provide funding to the school. Once again, the school board or its attorney should identify and explain the applicable rules.

The principal will assign staff to particular tasks based on the policies the council adopts.

What should be included in a student assignment policy?

The assignment policy should allow each student to have the program that will maximize his or her achievement. In the primary school, this may be simply a matter of planning to divide the entering students equally between several classrooms, while in a senior high school it may involve complex standards for matching each student's needs with an array of different classes and programs.

The council may want its policy to include consideration of a student's age, past study and performance, current needs and special talents. It may also want to set maximum class size and related rules.

What limitations govern student assignment policies?

A school's assignment policies may also be limited by law or regulation, including:

- **Mainstreaming** of students with handicaps when possible, as mandated by federal law.
- **Chapter 1** requirements regarding eligibility to participate in programs supported by these federal dollars.
- **Remediation program standards** setting eligibility requirements for state–funded programs.
- **Gifted and talented program standards** for participation in state–funded programs.
- **State extended school service requirements.** These programs assist students who need additional time to achieve KERA's required student outcomes. State regulations set some guidelines for picking students to participate and planning services for those pupils.
- **Federal law banning gender discrimination** in the programs available to male and female students.
- Any other laws or regulations that apply to Kentucky schools that have implemented school–based decision making.

The council should ask the district board or its attorney to identify and explain these rules. If a council needs additional guidance, it may want to consult the Kentucky Department of Education, the Office of Education Accountability, or a private attorney.

References:
The "mainstreaming" requirement is found in 20 USC 1412 and in 707 KAR 1:051.
Chapter 1, remediation, and gifted and talented funding requirements are discussed in more detail in Appendix C (pages 77–80 below).
Extended services are required by KRS 158.070 and regulated by 704 KAR 3:390.
The federal ban on gender discrimination is found in 20 USC 1681, which is often referred to as "Title IX."

What should be considered in a policy governing use of school space?

The policy needs to guide the location of different school classes and programs. It should also address whether student groups and outside organizations may use school facilities during the school day at times when they are not needed for instruction or other regular school operations. Use of the building outside of school hours will still be governed by district policies. Of course, district policies should not prevent schools from using the building to carry out policies that are the councils'

responsibility, such as providing extracurricular activities or student support services after school. In dealing with after school building use, as in many other areas, good communication between council and board will be needed to serve students well.

What limitations apply to use of school space?

The following limitations may apply:

- **District insurance policies.** Before the school council uses facilities in an unusual way, it should ask the district to review whether insurance will cover that arrangement. District coverage also should be checked before inviting outside groups to use school facilities.
- **Equal access for student religious groups.** Federal law provides that, if the school permits school facilities to be used by student interest groups, it cannot discriminate against those student–run interest groups that deal with religious topics.
- **Equal access for military recruiters.** State law requires that schools that permit outside groups or individuals to enter the school and inform students of career or education possibilities must admit military recruiters on the same terms as any others.
- Any other laws or regulations that apply to Kentucky schools that have implemented school–based decision making.

The council should ask the district board or its attorney to identify and explain these rules. The Kentucky Department of Education, the Office of Education Accountability, or a private attorney may also be able to provide guidance if needed.

References:
The student religious group access rule is found at 20 USC 4071–4072.
The military recruiter access rule is found at KRS 160.297.

6
Staff

Staffing Patterns

Who decides what staff a school needs?

The school council decides how many people to employ in each job classification, subject to a number of restrictions. The most important restrictions are these:

- The school council must use the job classification system established by state officials and the district board.
- Total staff costs must not exceed the dollars available for personnel at that school.
- If some staff members are paid out of money received from special state or federal programs, their work must meet any requirements set by those programs.

Reference: Council powers over a school's staffing pattern are stated in KRS 160.345(2)(g). See Appendix A, page 70 below.

What is the job classification system?

The job classification system lists minimum education and experience required for each position and allows advances in rank for those with special training or additional years of service. For jobs that require state certificates, such as teaching or counseling, qualifications are set by the state's Education Professional Standards Board. Jobs that do not require certificates are called "classified" positions, and KERA directs the Commissioner of Education to establish state–wide qualifications for those positions by January of 1992, with the standards taking effect on July 1, 1992. All public school employees must fit the state requirements for either a certified or a classified job. The district board can require additional qualifications and offer additional compensation above the state mandates.

References:
The Education Professional Standards Board's powers are established by KRS 161.028.
The Commissioner's duty to set qualifications for classified employees is stated in KRS 161.011.

How much money will each school have for personnel?

It is not yet possible to answer this question well. KERA requires the State Board for Elementary and Secondary Education to enact a formula by which school district funds shall be allocated to each school council. As of November 1991, the Board has not yet adopted a formula that addresses personnel funding, but the Commissioner

of Education plans to make a recommendation soon. Councils with questions on this subject may want to contact the state Department of Education and ask whether more information is available yet.

Reference: KRS 160.345(8) directs the State Board to adopt a formula for allocation of district funds to school councils. See Appendix A (page 72 below). 702 KAR 3:240, which was enacted in response to the requirement to adopt a formula, addresses only funding for instructional materials; funds allocated under that regulation cannot be used for personnel. See Appendix B (pages 73–74 below).

What should a council consider in selecting a staffing pattern?

A school's staffing needs depend on its overall educational strategy. A council should seek the personnel it needs to achieve KERA's goals for its pupils, giving each student the learning opportunities planned in the school's curriculum and instructional policies. One way to figure out what staff is needed might be to develop a schedule first, and then see how many staff members will be needed in each period of the day.

Does the state require schools to maintain any specific types or numbers of staff members?

No. Prior to the enactment of KERA, the State Board's standards for school accreditation did specify services for schools to provide and a list of professionals who could provide those services. KERA repealed the state law that permitted the State Board to set accreditation rules, so those requirements no longer apply. Some districts or schools may seek accreditation from a voluntary association, but state law does not require them to do so.

Are there limits on how schools can use funding from special state or federal programs?

Yes. Several state and federal programs provide money to help particular groups of students, and each program includes rules on what work people paid with its funds can do.

For instance, under Chapter 1 of the federal Education Consolidation and Improvement Act (the "Chapter 1 program"), many schools receive funding for disadvantaged children. This money must be used to provide those pupils with special help; it cannot be spent on the regular program the school provides for all students. Among the other kinds of funding that may have similar restrictions are:

- state remediation money,
- state gifted and talented money,
- state money for extended school services,

- state money to prevent students from dropping out,
- state money for counselors or psychological services,
- state money for exceptional children,
- federal money for students with handicaps,
- federal money for children of migrant workers,
- state and federal money for school meals, and
- federal Chapter 2 money.

The district school board or its attorney should advise each council of any earmarked funds the school may be spending for personnel and the ways in which those funds may and may not be used. More information on these programs is provided in Appendix C (pages 75–80), dealing with school funding.

When a school hires teachers with little or no experience, will its staffing needs be affected?

Possibly. New and out–of–state teachers must serve internships, and they must be supervised by resource teachers who frequently work at the same school. Other staff may be needed to work with students while new teachers and their resource teachers fulfill some internship requirements. Additional staff may also be needed if the school hires people being trained in an alternative certification program or has veteran staff working with trainees in such a program. More information on these new teacher internships and alternative certification programs can be found on pages 19–20.

When can a council make a change in its staff pattern?

If a position is already vacant and the council wants to hire someone in a different job classification, a change can be made immediately. For instance, suppose the school's assistant librarian retires, and the council decides it would prefer another teacher's aide to a new librarian. If the aide's salary is within the school's personnel allocation, there is general agreement that the council's decision should be implemented immediately, by starting the process to hire a new aide.

If there is not already a vacancy at the school, it is not clear whether changes can be made that affect current personnel; this issue is discussed further under the question immediately below.

Can a council reduce the number of people in a job classification when there is no vacancy in that classification?

This question has not been definitely answered. If there is no vacancy, changes in the school's staffing could affect people who are still employed at the school. For instance, the example above might be reversed: a school council might decide the school needs an assistant librarian, and that the only way to afford one is to reduce the number of teacher's aides. But suppose all three aides on the school's staff plan on returning to their jobs next year. Can the council decide that one of the aide positions should be abolished, meaning that one of the three must be transferred or laid off?

Some concerned groups say councils can reduce the ***number*** of people in a classification as long as they don't ask for ***particular people*** to be removed from the school. They argue that abolishing a position is different from recommending transfers or dismissals, which the law does not allow councils to do.

Others disagree. They contend that abolishing a person's position is no different than recommending that that person be transferred or dismissed, and therefore beyond what councils can legally do.

Reference: Councils are forbidden to recommend transfers or dismissals by subsection 2(g) of KRS 160.345. *See Appendix A, page 70.*

What can councils do about staff pattern changes until the legal question is settled?

Councils that think they may need to make changes that could affect current personnel should begin by finding out how their local district interprets this provision. They may also want to consult the Department of Education, the Office of Education Accountability, or private legal counsel for advice.

Filling Vacancies

Who picks new staff members when the school has a vacancy?

The principal picks all new staff members (other than his or her own replacement) after consulting with the school council. Staff vacancies at each school will be filled through a four step process:

- First, the district superintendent will recommend a list of applicants to fill the vacancy. If the school requests, additional names must be provided.
- Second, the principal will consult with the school council about the applicants. Consulting means that the principal must ask for and listen to the advice of the council, but the principal alone makes the final choice.

- Third, the principal will select the person to fill each vacancy.
- Fourth, the district superintendent will complete any steps necessary to hire the person the principal selects.

Reference: KRS 160.345(2)(i) sets forth the process for hiring new staff under school-based decision making.

What limitations apply to the principal's selection of new staff members to fill vacancies?

Principals are bound by the same rules that bind district superintendents who hire staff for schools without school-based decision making, including the following:

- **state and federal anti-discrimination laws** banning discrimination based on sex, age, ethnic origin, race, religious opinion, political opinion, or handicapping condition;
- **state hiring regulations** setting requirements for each job classification;
- **state "adjunct instructor" rules** that allow people to teach for one year in fields with a critical teaching shortage even though they lack some of the normal qualifications, provided no person certified to teach that subject is available;
- **state rules barring employment of relatives** of school board members or the superintendent within a school system and relatives of a principal within that principal's school;
- **any contract rules** agreed to by the district board and a district collective bargaining organization that apply to hiring for a particular type of job; and
- any other laws or regulations governing hiring that apply to Kentucky schools that have implemented school-based decision making.

The council should ask the district board or its attorney to identify and explain the applicable rules. A council that needs additional guidance may want to consult the Kentucky Department of Education, the Office of Education Accountability, or a private attorney.

References:
The types of discrimination noted above are forbidden by KRS 161.164 and 42 USC 2000e-2.
Hiring of adjunct instructors is governed by KRS 161.046.
Employment of relatives is restricted by KRS 160.380.

Who picks new principals?

The school council chooses the school's new principal when a vacancy occurs. The local superintendent recommends a list of applicants; the council may ask for a list of additional names if no applicant on the first list seems suitable. Once the school council selects the person they want, the superintendent does the official work of hiring that person.

As in the case of hiring other staff, the council's choice must comply with certain legal standards including nondiscrimination rules, state and local required job qualifications, and any applicable collective bargaining agreement. Again, the district board or its attorney should identify and explain these and any other relevant rules to the school council.

Reference: KRS 160.345(2)(i) governs the hiring of new principals under school-based decision making.

When do vacancies occur?

The word "vacancy" has not yet been precisely defined for purposes of school-based decision making. Some concerned groups argue a vacancy exists whenever an existing staff person leaves the school for any reason. Others claim that if the district superintendent chooses to replace the departing person with someone already working elsewhere in the district, there is no vacancy and no opportunity for the school principal or council to participate in the choice of replacement personnel.

Obviously, councils need to know when their power over vacancies applies, but there is no way to give a definite answer at this point. If a school's principal and council are not permitted to select the person who replaces a staff member who leaves the school, they should definitely alert the Department of Education and the Office of Education Accountability, and they may wish to seek private legal advice.

Transfers and Dismissals

Can the school council recommend transfers or dismissals of staff members?

No. KERA specifically states that the council does not have the authority to recommend transfers or dismissals. The district superintendent makes those decisions.

However, the principal may be required to report conduct warranting dismissal or to recommend transfers in cases where a staff member is unsuited to a particular school's program.

Other members of the school council may, as private citizens, choose to call serious problems to the superintendent's attention. Their opinions will have no special status, but the superintendent may consider them along with the advice of any other citizen who chooses to comment on district affairs.

References: KRS 160.345(2)(g) states that councils have no power to recommend transfers or dismissals. The principal's responsibility to report some types of wrongdoing is set forth in KRS 161.790. The right of citizens, including council members, to ask district officials to respond to staff–related problems at a public school is protected by the First and Fourteenth Amendments to the United States Constitution and by section 8 of the Kentucky Constitution.

Under what circumstances can the superintendent transfer a staff member out of a school that has implemented school–based decision making?

The answer to this question is not yet clear. In the past, superintendents have had substantial authority to reassign staff from one school to another, provided proper procedures were used. Now, however, some transfers may constitute improper or illegal interference with school–based decision making, but there are no definite rules on the topic yet. If a council is concerned about actual or possible transfers that could harm its school, it should talk first to district officials. If there still seems to be a problem, the council may want to contact the Department of Education, the Office of Education Accountability, or private legal counsel for advice.

7
Instructional Materials

What are instructional materials?

Instructional materials are the various supplies students use to learn and the additional items teachers use in preparing to teach them. These include familiar items like textbooks, teacher manuals, paper and chalk. They also include the manipulative materials now used to teach math in many schools and the wide variety of items students can use to learn science through hands–on activities. Almost anything *can* be used for learning: what your school needs will depend on its curriculum and its instructional strategies.

Who decides what instructional materials a school needs?

The school council does, as provided by KRS 160.345, subsection (2)(h), which says:

The school council shall determine which instructional materials and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school–based student support services, as determined by the school council.

This provision is one of the strongest aspects of school–based decision making. It requires districts to provide the specific items school councils select whenever district resources allow.

What basic allotment should each school have for instructional materials?

As of November 1, 1991, the minimum allotment required by the State Board for Elementary and Secondary Education is $75 per pupil. Each district must give its schools at least that much each year.

In many districts, schools are entitled to additional funds beyond $75 per pupil, either because the district receives state or federal dollars earmarked to serve particular kinds of students, or because local school boards vote to provide more than $75 from general funds.

As discussed on pages 36–40 below, councils may also decide that they want some of the school's share of state textbook funds spent on items other than textbooks.

Such purchases should not be considered part of the school's $75 minimum allotment; districts should allow councils to decide how to spend their basic allocation ***and also*** their share of state textbook funds.

Reference: 702 KAR 3:240 is the regulation setting the $75 minimum allotment. A copy of it is included in Appendix B, pages 73–74.

What can be purchased with the school's basic allotment?

The regulation states that the money is to be used for "instructional supplies, materials and equipment." As defined in the regulation, that includes:

- library books;
- periodicals and newspapers;
- library supplies;
- audio visual material and equipment;
- supplementary books;
- teaching supplies to include paper products;
- instructional equipment other than computer laboratories; and
- instructional travel.

For each of these categories, the regulation also lists code numbers, numbers that tell district officials how to identify purchases of these items in the district's financial records.

What should not be covered by that allotment?

The State Board regulation provides that this allotment should not be used for the basic supplies of a new school facility. It would be unfair to require a new school to pay for all its starting materials out of a first year's basic allotment.

Some items a school needs are not covered by the accounting codes listed in the regulation. Textbooks and technology are two examples that will require special arrangements, as described later in this section. If the school needs instructional materials that are not included under the accounting codes allowed for the $75 allotment, the district may need to allocate additional funds; remember that the law says the district must allocate the school funds "adequate to meet the school's needs," within the limits of available resources.

Finally, this money is for instructional purposes. Materials for support services, school administration, and maintaining the school's buildings and grounds do not need to be covered from this source.

Is the basic allocation all a school can ever spend?

Not necessarily. As already noted, districts may allocate additional funds above the $75 minimum. Moreover, extra dollars may be available for instructional materials that meet special requirements. School councils may want to ask district officials about:

- Federal Chapter 1 funding;
- Federal Chapter 2 funding;
- Federal Individuals with Disabilities Education Act funding;
- State remediation funding;
- State gifted and talented funding;
- State extended school services funding; and
- State funding for exceptional children.

More information on these types of funding can be found in Appendix C (pages 77–80 below). If the district has funds available from these sources for instructional materials, the school council should be able to decide how the school's fair share of them will be spent. Of course, councils will have to obey any legal restrictions on how those funds can be used.

How will the council order the materials it wants?

The precise process may vary from district to district.

In some districts, councils are being permitted to keep their instructional materials budget in a separate bank account and to make purchases directly from suppliers. However, that arrangement is only legally proper if the council meets quite stringent requirements, including:

- keeping accounting records that use the state's official accounting codes for each expenditure;
- designating a treasurer who must be bonded to protect against misuse of funds;
- establishing a depository bank and a penal bond;
- following state bidding law that sets rules for advertisements that list what the school wants to purchase, the acceptance of official bids from suppliers, the opening of the bids, and the awarding of contracts.

In addition, some suppliers may be unwilling to deal directly with councils because the council is not a legal corporation with the power to incur debts.

In other districts, district staff are still responsible for actually handling all the school system's money and for keeping records of that spending. If a particular purchase can only be made by advertising for bids, the district staff handles that process as well. Councils inform the district of the items they want purchased, and the district does all the paperwork needed to acquire those items. Many councils will find this a much easier way to handle procurement.

Where district staff continue to handle the actual purchasing of instructional materials, the council may need to follow any reasonable process the district establishes. A reasonable process may include required forms, needed information, and a schedule stating when requests must be sent to the district office in order to have items by a needed date. The district may also check to be sure that the school will not exceed its total allotment, that the items are truly meant for instructional use, and that applicable state and federal rules have been followed.

Can the district reject council orders that have complied with proper procedures?

No. School councils are responsible for deciding which items will be used in the school. For instance, if the school wants pink chalk for classroom use, it is entitled to pink chalk. It is not legitimate for the district to object because every other school in the district uses white chalk, or because white chalk is less expensive, or because the superintendent prefers it, or even because the board has made a policy finding that white chalk is superior to pink in every way.

Who selects textbooks for schools that implement school-based decision making?

School councils do. Textbooks are instructional materials, so school councils plainly are entitled to pick the ones that the state or the district purchase for use in their schools.

How will school councils select their textbooks?

Textbook selection involves two different processes. First, for the adoption process, councils will need to select books from the State Multiple List, and the district board will have to pass a resolution adopting those books for use in the district. Second, to requisition books, councils will have to decide how to use their share of textbook funds from the state and the district, including how many copies they want of the items they selected from the state adoption list and what other items they wish to acquire. Each process is discussed in more detail below.

What is the State Multiple List?

The State Multiple List identifies the books that can be used as basal textbooks in Kentucky schools without special permission from the State Board for Elementary and Secondary Education.

Note, however, that this rule applies to basal textbooks: books that are in regular use in the classroom. It does not apply to supplementary texts that are used occasionally for additional information.

How is the State Multiple List created?

Each year, the State Textbook Commission reviews books in one or more subject areas, along with related workbooks, manuals and other supporting materials. It selects several books at each level, and those books are placed on the adoption list for use over the next six years. In October of each year, the Commissioner of Education sends a copy of this list to each district for use in selecting textbooks for the following school year.

How can a waiver to use a non–adopted text be obtained?

First, the school council needs to identify a particular text it wants to use. Then, it must ask the district school board to apply to the State Board for Elementary and Secondary Education for a waiver. The application must show that the textbook in question meets the same criteria that were used to select the books on the State Multiple List.

If the waiver is granted, the State Board for Elementary and Secondary Education will reimburse the cost of the books. This reimbursement cannot exceed the cost of the most expensive book on the adopted list; school councils will need to find a way to pay the difference if their chosen books exceed that limit.

Bear in mind that waivers are only needed for books that will be used as a class's basal text. Supplementary books that will be used occasionally can be used without a waiver even if they are not on the State Multiple List.

Reference: Textbook waivers are governed by KRS 156.445.

What procedure should councils use to select their books?

Each district school board will need to establish a process for school–based decision making about textbooks. That process needs to provide two schedules: one for state textbook funds and one for any district funding to be spent on textbooks. Each process should set a date for the district to advise the councils of what they can spend, and should also specify when councils should tell the district what their schools need in order to have materials delivered before school starts each fall.

Who pays for textbooks?

The General Assembly in each session sets a textbook budget for the subsequent two years. The General Assembly allocation covers all elementary textbooks.

If there is money left over after meeting elementary school needs, secondary school books can also be requisitioned. However, if there is no state money, or not enough state money, districts are responsible for buying their own secondary school texts. Some districts charge fees for use of textbooks bought with district money.

What happens if a poor student cannot afford to pay the textbook fees?

Textbook fees must be waived for students who qualify for free school lunches. Students who qualify for reduced price lunches are entitled to a reduction in their textbook fees. If a student does not meet the standards for free or reduced price lunches, but has exceptional family circumstances making it impossible to pay the fees, districts must also consider that student's request for free textbooks.

Reference: Textbook fee waivers and reductions are required by KRS 157.110 and 702 KAR 1:005.

How do state textbook funds get spent?

The Department of Education notifies each district of its share of those funds for the coming school year. The state keeps the funds but asks each district to return requisition forms indicating what books should be purchased with the district's portion of state funds.

The regulations governing textbook purchases do not set a procedure for determining a council's share of the district allocation or for councils to notify the district of the books it wants requisitioned. Accordingly, each district will need to set policies on these issues that permit councils to pick books for their schools.

Must all the state funds be spent on textbooks from the State Multiple List?

No. Other materials may be purchased with that money for:

- Kindergarten programs;
- Elementary school special education classes;
- Elementary school courses and programs listed in the Program of Studies (see page 13 for a definition) for which no textbooks are listed in the State Multiple List;

- Elementary school courses or programs in the Program of Studies "that have organizational patterns and teaching methodologies that require a variety of instructional materials;" and
- Elementary school courses and programs that need annual approval from the State Board because they are not listed in the Program of Studies.

Up to 35% of a district's funds may be spent on a wide variety of instructional materials for these kinds of courses and programs. District officials should order and pay for the desired items and then seek reimbursement from the state.

Reference: The use of state funds for materials other than state-adopted textbooks is authorized by K:702 KAR 1:005, Section 12.

What if a council wants to spend more than 35% of its share of state money on non-basal materials?

It may be possible to do so under one of two circumstances.

First, if some schools use more than 35% for non-basal items but others use less, the total district requisition may be within the state mandate. Of course, there is no way to guarantee that decisions for different schools will balance out that way.

Second, a district superintendent can request permission from the Department of Education to spend more than 35% of its allotment on those non-basal materials. The waiver application must include a detailed description of the program or course for which the materials are needed, the rationale for spending additional funds on the items desired, and the percent of funds to be spent on those things.

Reference: Applications to spend additional state textbook funds on non-basal materials are permitted by 702 KAR 1:005, section 12.

How should districts determine a council's share of textbook funds?

No state regulation answers this question, so it is left to district discretion. In most cases, it would be reasonable for each school's share of funds to be proportional to its share of pupils in the district, but it may sometimes be appropriate for the district to vary the distribution to address a special need at one or more schools, provided the reasons are publicly acknowledged.

If the district budget includes money for secondary school textbooks, should secondary school councils receive a share of that money?

Yes. Moreover, that share should be ***in addition to*** the school's allotment for instructional materials. The State Board regulation requiring districts to allot $75 or more per pupil for instructional materials does not permit that money to be spent on basal textbooks.

How will school councils acquire educational technology?

KERA established the Council for Education Technology, with the task of preparing a statewide plan for using modern educational equipment. As of November 1, 1991, however, that report has not been finalized, although the original statutory deadline for it was January 1, 1991.

Until a technology plan is adopted, money already budgeted for technology by the General Assembly is being held in a separate account. These funds will be available to pay for implementation once a plan is available.

In the interim, councils may wish to ask the district board for local resources to meet specific technology needs.

Reference: The work of the Council for Education Technology is governed by KRS 156.660–156.670.

8
Discipline and Classroom Management

What is discipline, and what is classroom management?

Together, disciplinary rules and classroom management techniques work to encourage proper student behavior.

Discipline policies often consist of rules of conduct and policies for dealing with students who misbehave. Such policies may include specific penalties, and they may also set out procedures for notifying parents, insuring that all sides of a story are heard, and responding to repeated misbehavior.

Classroom management is a broader concept, involving varied ways of organizing students' activities to promote learning. For instance, in organizing its primary program, a school may find that some children are less prepared than others to work cooperatively. A classroom management policy might include beginning each year with special activities to practice cooperation, or it might propose to divide students into working groups that balance strong and weak group skills. Ideally, if a classroom management policy is successful, the discipline rules will rarely need to be invoked.

Reference: Subsection (2)(j)7 of KRS 160.345 directs councils to adopt policies in the area of "selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal." See Appendix A (page 70 below).

What should school policies for discipline and classroom management include?

Overall, the policy should set out clear expectations for student behavior, plans for communicating those expectations to students and helping students live up to them, and consequences for failing to meet the school's requirements.

The school's policy must specify the responsibilities of students, parents, teachers, counselors, and the principal for maintaining an orderly environment for student learning. Councils are legally required to state these roles clearly, and thinking them through can help the council see the various steps needed to create a sound learning environment.

At least once a year, parents, students and staff should be notified of the disciplinary portion of the school's policies, including rules students must obey, procedures when a rule may have been broken and penalties that may apply.

These policies will be most effective if they reflect input from students, parents and staff at the school.

Must the school's policy follow the district's discipline code?

There is not a clear answer to this question yet. State law required districts to adopt such codes in 1984 and submit them to the Department of Education for approval. On the other hand, KERA plainly directs school councils to set discipline policies for their schools.

One view is that the provision establishing school-based decision making is a more recent and more specific one, and therefore permits councils to establish discipline policies contrary to the district's past rules. Another view is that council policies must still be within the limits of the district's code, unless the district school board grants the council a waiver.

Reference: The requirement that districts set discipline codes approved by the state is found in KRS 158.148 and 704 KAR 7:050.

What restrictions apply to school discipline policies?

Regardless of whether councils must comply with district discipline rules, their policies will need to fit within other limits that protect student rights. These restrictions include:

- **The state ban on corporal punishment**. The State Board enacted this ban by regulation in 1990, but it recently was denied approval by a committee of the General Assembly. Therefore, it will expire at the end of the General Assembly's 1992 session unless the General Assembly acts to preserve the ban.
- **State-mandated suspension and expulsion procedures**.
- **The state ban on paging devices** owned by students and a requirement that school officials confiscate them if brought to school. This rule does not apply to members of volunteer fire or medical services.
- **The driver's licence suspension rule**, requiring notification of state authorities when students are academically deficient or have nine or more unexcused absences in one term. Drivers' licenses can only be suspended if the district offers an alternative education program for students who have difficulty in regular school programs.
- Any other laws or regulations that apply to Kentucky schools that have implemented school-based decision making.

The council should ask the district board or its attorney to identify and explain these rules. If a council needs additional information, it can also consult the Kentucky Department of Education, the Office of Education Accountability, or a private attorney.

References:
Corporal punishment is prohibited by 704 KAR 7:055.
Suspensions and expulsions must follow the procedures set out in KRS 158.150.
Paging devices are governed by KRS 158.165.
Driver's license rules and the alternative education program requirement can be found in KRS 159.051 and 704 KAR 7:100.

9
Student Support Services

What are student support services?

Support services include any effort (other than instruction) that the school makes to help students be prepared to learn. Such services can include tutoring, counseling, screening for learning disabilities, and a wide range of other types of assistance.

Reference: Section 2(h) of KRS 160.345 provides that councils shall select student support services to be provided in their schools. See Appendix A, page 70.

Are schools responsible for providing all the services students need?

No. KERA also calls for the creation of new family resource centers and youth services centers that should address many of these needs. These centers will be run by local school boards and set up at or near each school where 20% or more of the students are eligible for school lunch subsidies. The school districts have until 1995 to establish these centers, but some must be started each year. Each center will have a local advisory council to provide input from those most directly affected by its services.

School councils have no official responsibility for these centers, but they will want to avoid duplicate services. Councils may also want to offer some informal suggestions for center operations based on their knowledge of the school's students and families.

Reference: The centers are required by KRS 156.497.

What should school councils consider in deciding which services to offer?

School councils will want to begin by finding out what services the school has been offering and trying to identify other services pupils have needed in the past.

Councils should select those services that can do the most to help attain the goals for students and schools listed inside the front and back covers of this guide. For example, KERA's last goal for schools, dealing with successful student "transitions to work, post-secondary education, and the military" might be met in part by a mentoring program that pairs students with adults in careers that interest them. Counseling and job fairs are among the many other support services that can contribute to meeting this particular goal.

What procedure will be used for selecting and requesting support services to be provided by the schools?

As of November 1991, no state regulations have been issued on how this matter will be handled. Each district should establish a policy for services at schools that implement school-based decision making. This policy should provide a mechanism for telling each school council what funds are available each year for services to its students, and a schedule for councils to decide which services it wants to receive within that funding.

In the past, districts have provided support services at least four different ways:

- **Staff assigned to specific schools**: for example, guidance counselors frequently work in a single building with the students enrolled there.
- **Itinerant staff**. Psychological services are a good example here, since they are frequently performed by one psychologist who travels from school to school but is officially based at the district's central office.
- **Service contracts**: In some cases, districts have only a few students who need a service, and may hire a private agency: this is particularly common when dealing with the needs of handicapped and exceptional students.
- **Cooperative arrangements with other districts** are also used when only a few students in each system need a service; each participating district provides part of the salary for a staff member who travels to schools through out the cooperative area.

It seems likely that the district board will decide which of these options to use to provide the services each school council requests. If the district opts to fund personnel assigned to the school, the school council's personnel powers will apply. (See Section 6, pages 25–32 above.) If itinerant staff, contracts, or cooperative arrangements are used, it is more likely that a visiting person will provide services. In such cases, the principal and the school council will need to work with the superintendent to be sure that person's services do not disrupt other parts of the school's schedule.

Are there any services a school must provide?

State law does not impose any requirements, but a State Board regulation mandates that schools establish a cumulative health record for each student and provide screening and follow-up services for health problems.

In the past, the state's accreditation standards have required some additional services. The accreditation process assessed the adequacy of each school's program and resources, including its services, and schools that fell short of the standards were

required to plan and implement improvements. At the moment, the accreditation process is being revised to fit KERA's broader reforms. When revised standards are issued, school councils will need to study them and attempt to provide any services they require.

Reference: The health record requirement is found in 704 KAR 4:020.

Are extra funds available to serve students with special needs?

Yes, for eligible students, the district may already be receiving funds from targeted state and federal programs. The following are important possible sources to ask district officials about:

- Federal school meal subsidies.
- Federal Chapter 1 funding.
- Federal Individuals with Disabilities Education Act funding.
- State food service funding.
- State remediation funding.
- State gifted and talented funding.
- State funding to educate exceptional children.
- State funding for extended school services.
- State grants for dropout prevention.
- State grants for counselors.
- State grants for psychological services.

More information on these sources of funding can be found in Appendix C (pages 77–82 below). If the district has funds available from these sources for student support services, the school council should be able to decide how the school's fair share of them will be spent.

Will the state monitor the effectiveness of services the school provides?

Yes, by looking at student and school success on the goals set by KERA. Specific data will be collected on attendance, dropout and retention rates, reduced barriers to learning and transitions from school. More generally, the quality of support as well as the quality of instruction will be reflected in the outcomes of student achievement assessments.

10
Extracurricular Programs

What are extracurricular programs?

A school's extracurricular programs are voluntary student activities that do not contribute directly to a school's academic efforts. They include most sports, clubs, school plays, band, academic teams, chorus, debate teams and similar activities.

Reference: Subsection (2)(j)8 of KRS 160.345 directs school councils to adopt policies addressing "selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation and supervision." See Appendix A, pages 70–71.

What is the purpose of extracurricular programs?

Some extracurricular programs may be offered just to let students have fun in a safe, well–run environment. But many extracurricular programs can contribute to achieving KERA's goals, and councils may want to give these programs priority. For instance, school plays and musical activities develop student talents and teach them about the arts; students who become deeply involved may even learn more quickly in these programs than they do in their regular classes. Other programs are natural opportunities for students to practice problem solving and the integration of knowledge.

KERA's goal of "demonstrated effectiveness in community service" should be given extra consideration in thinking about extracurricular programs. Students involved in sporting programs might be challenged to organize a community work day to improve nearby athletic facilities or to volunteer at a Special Olympics day for handicapped children. A school paper might look into a local litter program or investigate area recycling needs. In many cases, extracurricular programs that students volunteer for may be ideal opportunities for encouraging genuine service to the community.

What does the extracurricular policy need to include?

KERA requires that school council policies address these issues:

- Which extracurricular programs should the school offer?
- What academic qualifications, attendance requirements, and other standards must students meet to participate in those programs?
- How will the programs be evaluated?
- What sort of supervision will the school provide during these programs?

What restrictions apply to school extra–curricular policies?

In setting extracurricular policies, the school council will want to consider the following limitations:

- **School district insurance**. Activities should not be planned if they will not be covered by the district's liability insurance.
- **Federal equal opportunity requirements**. These rules require that male and female students receive equal educational services and will need special consideration when deciding which sports to include.
- **The state basketball rule** requiring schools with a boys' basketball team to maintain the same program for girls. Schools must meet this standard unless the boys' team only plays against other teams within their own school.
- **District transportation policies**. The council should know whether the district will help students get to off–campus activities and whether it will help students get home from school if they stay after the regular bus schedule.
- **Kentucky High School Athletic Association rules**. Those regulations govern various aspects of high school sports.
- Any other laws or regulations that apply to Kentucky schools that have implemented school–based decision making.

The council should ask the district board or its attorney to identify and explain these rules. If a council needs additional guidance, it may want to contact the Kentucky Department of Education, the Office of Education Accountability, or a private attorney.

References:
The federal equal opportunity requirement is found in 20 USC 1681, often referred to as "Title IX."
The state basketball requirement is found in KRS 157.350, subsections (5) and (6).

Can fees be charged for participation in extracurricular activities?

District policies will control whether a council can charge a particular fee.

State law requires all districts to have a procedure for waiving fees for students who qualify for free or reduced price lunches. Districts must set aside money for waivers of each student fee, which may make district officials less willing to authorize fees than they have been in the past.

The State Board for Elementary and Secondary Education's rules about those waiver policies appear in 702 KAR 3:220. There is some controversy over the sections of that regulation that assert that waivers are not required for some fees. Some lawyers believe the law requires waivers for all fees, not just those listed in the regulation.

Councils concerned about poor students who cannot get waivers for some fees may wish to consult the Office of Education Accountability or to seek private legal advice on this problem. Individual students can also be referred to a nearby legal services organization that may be able to advice low–income families on their rights under state law. Finally, councils can choose not to offer programs that depend on fees their districts will not waive.

References: Fee waivers are required by KRS 160.330, and regulated by 702 KAR 3:220.

Can schools hold fundraisers to pay for extracurricular programs?

Yes. Schoolwide fundraisers must have the permission of the local school board, but voluntary booster clubs that meet after school hours do not need such permission.

Reference: KRS 158.290 governs school fundraisers.

11
Accountability

How will schools be held accountable?

KERA institutes a statewide system of rewards for schools that raise their percentage of successful students and interventions to improve schools that fail to do so. Under that system, each school's current percentage of successful students will be determined. The State Board for Elementary and Secondary Education will then set a threshold level of improvement for each school that is slightly higher than its current student success percentage. After two years, all schools will be evaluated, with rewards going to schools that exceed their thresholds by at least 1% and special requirements being imposed on those that fall short. New thresholds will then be set and the process will begin again.

KERA also mandates the creation of a new statewide assessment system that will be a major tool in determining each school's percentage of successful students. Students will be assessed each year, with the data being used every other year for accountability purposes.

Reference: The accountability system is set up by KRS 158.6455. The assessment system is mandated by KRS 5453.

When will the new accountability system take effect?

The State Department of Education will collect data on achievement levels during the 1991–92 school year. This data will establish schools' baseline levels of student success. Schools will then have a two year period to work toward new thresholds before being held accountable for student success in 1993–94.

Who will determine what constitutes a successful student?

The State Board for Elementary and Secondary Education will officially define a "successful student." Once the new statewide student assessment program is in place, its outcomes will be a major component of the definition.

What will the new statewide student assessment program cover?

The program will assess student achievement of KERA's goals for students, as listed inside the front cover of this book and will be based in part on the Council on School Performance Standards' list of measurable performance outcomes. More information on those performance outcomes can be found on page 12.

When will the new assessment program begin?

The tests are now being developed by committees of Kentucky educators working with experts in assessing achievement. KERA calls for it to be fully implemented no later than the 1995–96 school year, and possibly as soon as the 1993–94 school year.

How will threshold success levels be set for each school?

The threshold levels will be established by the State Board for Elementary and Secondary Education. Each school's threshold will entail an improvement above that particular school's current percentage of successful students, including students at risk of school failure. The improvement required will be lower for schools closest to having one hundred percent successful students.

How will threshold levels be set before data is available from the new statewide assessment system?

The State Board for Elementary and Secondary Education will administer interim tests in the 1991–92 school year to assess student skills in reading, mathematics, writing, science and social studies in grades four, eight and twelve. The interim test results will be used to set school thresholds until the new statewide assessment system yields enough data to be used instead.

What will happen to schools that fail to achieve their threshold levels of student success?

Schools that do not achieve their threshold level improvements will be required to take certain specific steps. The requirements will vary depending on the extent of the failure.

Schools that fail to improve—that maintain past levels of success but do not move ahead to their thresholds—must develop school improvement plans. School improvement grants will be available to help them get back on track.

If a school's successful student percentage declines from its past level, the State Board will assign a "Kentucky distinguished educator" to work at the school, monitoring and helping with efforts to improve. These schools also must prepare a school improvement plan and will be eligible for school improvement grants.

A school that declines dramatically, by more than five percent, will be declared a school in crisis. Parents will be permitted to remove their children and enroll them in a nearby successful school. In addition, the assigned Kentucky distinguished

educator will evaluate the school's staff to decide whether transfers or dismissals are needed. As in less troubled schools, a school improvement plan must be developed, and the school will be eligible for state improvement funds.

What will happen to schools that do better than their thresholds?

Schools that exceed their thresholds at the end of a two year accountability cycle, increasing their level of student improvement even more than the state required, will receive special benefits.

First, they will be eligible to request waivers of some regulations passed by the State Board for Elementary and Secondary Education. This process is discussed in more detail on pages 65–66 below.

Second, KERA requires the State Board to permit schools that exceed their threshold requirement an exemption from school–based decision making, if a majority of the school's faculty vote to ask to be exempt. Once the exemption is granted, the district school board will resume control of the school.

Finally, if the improvement is at least one percent above the school's threshold, a financial reward will be given to the school on behalf of its staff. The reward will be calculated as a fraction of the school's instructional staff's salaries. The school's certified staff will vote on how the money should be used. For example, the money might be spent to expand the school library or to start a special program. It could also be used to fund staff sabbaticals and attendance at professional conferences. Or the staff might vote for cash disbursements, allowing entirely individual choices. The statute does not specify any limits on how the money may be used, other than that there must be a staff vote on the matter and that the money must be distributed in proportion to each staff member's current annual salary.

Money for these rewards has already been budgeted by the General Assembly for the 1990–91 and 1991–92 fiscal years. These dollars will be kept in a separate trust fund until the rewards are paid out.

Reference: The successful schools trust fund is created by KRS 157.067.

What can a school council do if it thinks its performance judgment was grossly unfair?

It can appeal to the State Board for Elementary and Secondary Education. The State Board can only make adjustments if it finds one or more of the following highly unusual circumstances:

- The performance judgment was based on fraud or a mistake in computations.
- The performance judgment was arbitrary.
- The performance judgment lacked any reasonable basis.
- Significant new circumstances occurred during the biennial assessment period that were beyond the control of the school.

12
Relations with the District

What aspects of school–based decision making can a district school board regulate?

State law directs each district board to adopt policies in the following nine areas:

- **Budget and administration**. The district board passes the district budget and sets spending policies for all items needed by the district other than school staff, instructional materials, and school–based student support services. In those areas, the board allocates money for council use, based on formulas set by the State Board for Elementary and Secondary Education.
- **Assessment of individual student progress**. The board adopts methods for monitoring student learning and sets rules for reporting on that progress to students, parents, the school district, the community and the state.
- **School improvement plans**. State law requires the development of school improvement plans at schools that fail to achieve their required levels of student success. District boards set policies governing the development of those legally mandated plans. School improvement plans are discussed in more detail on pages 54–55 above.
- **Professional development**. The board must plan and implement programs to help staff improve instruction. In many cases, this will be done through consortia of two or more districts.
- **Parent, citizen and community participation**. Board policy must address these arrangements, including the relationship of the school councils with other groups.
- **Cooperation and collaboration**. The board arranges or approves programs shared with other public and private agencies, with other districts or among schools within the district.
- **Waivers of district policies**. Boards must specify how councils can request waivers of district rules.
- **Record–keeping**. Boards may specify what records school councils need to keep.
- **Appeals**. Boards must set up a process for appeals from school council decisions.

Each board must also decide whether to grant councils additional powers beyond those guaranteed by law, and each board must provide council members with insurance against liability for actions they take as part of their council work.

In addition, the board may set policies to address issues concerning the formation of school councils that are not addressed by KERA Those policies cannot, however, conflict with the rules for council operations established by state law.

References:
KRS 160.345, subsection (3), requires district boards to adopt policies regulating school-based decision making in the nine areas listed above. See Appendix A, page 70–72.
The board power to grant councils additional powers and the board duty to provide insurance for council members appear in KRS 160.345, subsection (4). See Appendix A, page 71.
Board responsibilities for council formation issues not addressed by state law are specified in KRS 160.345(2)(e). See Appendix A, page 71.

What other responsibilities do local school boards have for schools that have implemented school-based decision making?

The local school board is legally given "general control and management of the public schools in its district," (KRS 160.290), within the limits of state and federal laws and regulations. Accordingly, the board will be responsible for all areas of district affairs that are not specifically assigned to the school councils, including the following:

- **Facilities**. Local boards are still entirely responsible for district buildings. They must see that those facilities are clean and safe for students. When the district needs new or renovated facilities, the board is responsible for meeting those needs.
- **Personnel policies**. The board can establish qualifications and compensation levels for each job in the district, provided that these equal or exceed minimums required by the state. District board members also hire the superintendent and the board attorney. However, it is illegal for board members to be involved in hiring for other positions, and they can be removed from office if they try to influence those decisions.
- **Waiver of any pupil fees**. Under state law and regulations, each district is required to establish a policy for waiving fees for pupils who qualify for free and reduced price lunches. Fees and fee waivers are discussed in more detail on pages 38 and 50–51 above.

References:
Personnel policy roles of the board are governed by KRS 160.380 and 160.290: board hiring involvement is prohibited by KRS 160.180.
Hiring of superintendents is controlled by KRS 160.350 and 160.352.
Waiver policies for pupil fees are required by KRS 160.330 and 702 KAR 3:220.
The board's duty to maintain school buildings is specified by 704 KAR 4:020.

Can district boards overrule school council decisions on appeal?

Yes, sometimes. As noted above, each district school board must adopt a policy for appeals from decisions made by school councils. This policy should include information on who may appeal a decision, who will hear and decide the appeal, what types of decisions may be appealed and the circumstances under which a council decision may be reversed.

Some district boards may adopt a very broad appeal policy, such as one that allows any citizen to appeal any decision, or one that allows a council decision to be reversed for any reason. If this kind of policy is in fact used to prevent a council from making reasonable use of its legal powers, the council may wish to consult the state Department of Education, the Office of Education Accountability, or private legal advice. An appeals policy should not be used to prevent a council from functioning effectively.

Narrower policies may also be in place in some districts. A narrower policy might resemble appeals system in other areas of the law, where appeals can only be made by those directly affected, and decisions can only be reversed if they were plainly unreasonable or unlawful. Under these systems, school boards only reverse councils when a council action violates one or more specific standards. Even if the board itself would have made a different choice, council decisions that are within those standards are allowed to stand.

Reference: KRS 160.345(3)(i) requires boards to establish a process for appealing a decision made by a school council. See Appendix A, page 71.

Can the school board excuse the school council from following district policies that apply to other district schools?

Yes, it can. School councils can ask the district board to waive district policies that interfere with plans the council wants to enact at a school. Under KERA, the board must adopt a policy stating the requirements for receiving such a waiver.

Reference: KRS 160.345, subsection (3)(g), requires districts to adopt a policy for waivers requested by councils. See Appendix A, page 71.

What do the superintendent and district staff do under a school–based management system?

The district superintendent is responsible for implementing board policies and supervising day–to–day district operations. The superintendent and district staff will carry out a number of tasks in support of school operations, including:

Personnel

- **Advertising jobs** in the district, including school-level positions.
- **Supplying lists of eligible applicants** for school-level jobs to school principals and councils.
- **Hiring** persons selected by the principal or council for school-level jobs, and selecting staff at the district level.
- **Determining transfers, promotions and dismissals** of employees, subject to state laws and regulations and to any collective bargaining agreements that may apply.
- **Conducting any collective bargaining negotiations** with employee representatives.

District Funds

- **Developing the district's annual budget and any long-range budget plans,** including calculation of the amounts school councils may use for staff, instructional materials and student support services under formulas set by the State Board.
- **Receiving all district revenues,** including funds for use by the school council, and holding those funds in appropriate bank accounts or other locations.
- **Ordering all goods and services** for use in the district, including those selected by school councils.
- **Paying the bills** for goods and services for use in the district, including the payroll.
- **Maintaining books of account** showing all district revenues, expenditures, assets and liabilities, arranging outside audits of those books, and making required spending reports to the state and federal governments.

Transportation

- **Planning and supplying all school bus transportation** for district students.

Assistance to school councils and committees

- **Providing training** and other professional development.
- **Offering suggestions and resources** on curriculum, instructional practices, and other issues.
- **Helping with planning and policy development.**

References:
The superintendent's personnel responsibilities are specified in KRS 160.345(2)(i) and 160.380.
The superintendent's responsibility for transportation is set by 702 KAR 5:030.

Who conducts collective bargaining negotiations?

Those negotiations are the joint responsibility of the district board and the superintendent and only occur after the board recognizes an organization to represent a group of employees. Principals and school councils must abide by any rules established by a collective bargaining agreement that apply to their staff-related decision making.

How will new superintendents be chosen?

When the district board determines that a vacancy has occurred or will occur, it will establish a local screening committee, with the following members:

- two teachers, elected by the teachers in the district;
- one board of education member, appointed by the board chairman:
- one principal, elected by the principals in the district; and
- one parent, elected by the presidents of the parent-teacher organizations in the district.

This screening committee will make recommendations to the board. The board must consider these recommendations but is not required to appoint a superintendent from those recommendations. School councils have no official role in the superintendent selection process, but they may find it valuable to keep track of this very important process.

Reference: Selection of new superintendents is governed by KRS 160.350 and 160.352.

13
Relations with the State

What is the General Assembly's role in Kentucky education?

The Constitution of the Commonwealth of Kentucky provides that:

The General Assembly shall, by appropriate legislation, provide for an efficient system of common schools throughout the state. [Section 183]

This system must provide substantially equal educational opportunities for all students. The General Assembly's most important specific duties include:

- enacting statutes that set up the state school system—including the State Board for Elementary and Secondary Education, the state Department of Education, and the local school districts and their boards— and regulating their various operations.
- determining the level of state education funding, how it will be spent, and the taxation needed to pay for it.
- determining the levels and types of taxation local districts may use to raise additional school funds.

The Kentucky Education Reform Act of 1990 is a major new effort by the General Assembly to provide the kind of education required by Kentucky's Constitution.

What is the Office of Education Accountability?

The Office of Education Accountability is a special agency created by the General Assembly to monitor and report on KERA's implementation and other aspects of Kentucky education. When allegations of wrongdoing are not satisfactorily resolved or explained by other local or state officials, the Office is also charged with investigating those allegations. The Office is a division of the Legislative Research Commission, which serves the General Assembly.

Because of its special role in assuring that KERA is properly implemented, school councils may wish to contact the Office of Education Accountability if they have difficulty exercising the powers given to them by state law, or if they need clarification of an issue where they disagree with district authorities. The Office maintains a toll–free number for questions about KERA's implementation: 1-800-242-0520.

Reference: The duties of the Office of Educational Accountability are listed in KRS 7.410.

What is the role of the State Board for Elementary and Secondary Education?

KERA defines the role of the State Board this way:

The primary function of the board shall be to develop and adopt policies and administrative regulations by which the Department of Education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services, and activities within the Department of Education which are within the jurisdiction of the board.

The State Board's specific duties include the following:

- **Assessment:** No later than the 1995–96 school year, the Board must implement a statewide, primarily performance–based assessment program.
- **Accountability:** The Board defines success for students and schools, sets thresholds of student success for each school to seek, sets the rules rewarding successful schools and districts and intervenes when schools fail to meet their threshold levels of successful student performance.
- **Completion of primary school.** The Board must also set standards for establishing when students have completed the primary school program requirements and are ready to enter fourth grade.
- **School–based decision making:** The Board has several specific roles, including (1) adopting sample guidelines to help local boards develop their school–based management policies; (2) providing professional development to help schools implement school–based decision making; and (3) adopting formulas for the allocation of school district funds for each school council.
- **Program regulations:** The Board adopts official operating procedures for a variety of programs mandated by the legislature, including the Distinguished Kentucky Educators, grants from the Commonwealth School Improvement Fund, early childhood education for at–risk children, and preschool education and services for handicapped students.
- **District performance standards:** The Board sets standards for district student, program, service, and operational performance that will remain in effect until the student performance assessment and accountability system is fully implemented on July 1,1996.
- **Curriculum:** by July 1, 1993, the Board will disseminate a model curriculum framework tied to KERA's goals, outcomes and assessment strategies;
- **Commissioner of Education:** The Commissioner is appointed by the Board and serves at the Board's pleasure;
- **Interscholastic athletics:** The Board has appointed the Kentucky High School Athletic Association to manage these programs. The Board approves KHSAA rules, regulations, and bylaws and it hears appeals from KHSAA decisions.

- **Removals and suspensions of school staff:** The Board must consider recommendations from the Commissioner of Education for the removal or suspension of any superintendent of schools, principal, teacher or other public school officer for immorality, misconduct in office, incompetency or willful neglect of duty, and conduct hearings if requested by that officer.

References:
The new assessment system is governed by KRS 158.6453.
The accountability system is established by KRS 158.6455.
Standards for entering fourth grade are required by KRS 158.030.
The State Board's responsibilities for school-based decision making are listed in KRS 156.029, subsection (7).
The State Board's regulatory responsibilities are described in the sections dealing with each particular program, including Distinguished Kentucky educators (KRS 158.782), the commonwealth school improvement fund (KRS 158.805), and preschool services for at-risk and handicapped children (KRS 157.3175 and 157.226).
District performance standards are mandated by KRS 158.650–158.685.
The model curriculum framework is required by KRS 158.6451.
Appointment of the Commissioner of Education is governed by KRS 156.148.
Interscholastic athletics are regulated under KRS 156.070, subsection (2).
The Board's role in removals and suspensions appears in KRS 156.132.

Can the State Board waive a statewide regulation and permit a school to be excused from its requirements?

In some cases, provided the school meets a required level of academic success, the Board can grant such a waiver. A school council asks the district superintendent to request the waiver, and the superintendent makes the official request. However, the superintendent has no authority to refuse to submit a request desired by a school council.

KERA provides that the waiver will be granted to schools achieving a specified level of academic success:

- Prior to the 1994–95 school year, schools must meet certain state standards for student, program, service and operational performance.
- After the 1994–95 school year begins, schools must achieve their threshold levels of student success before a waiver can be granted.

Waivers cannot be granted if the regulation in question is required by federal law or if it deals with:

- health;
- safety;
- civil rights;
- measurement of performance outcomes; or
- determination of successful schools.

Waivers can be revoked if a school fails to achieve its threshold level after receiving the waiver.

Reference: Waivers from the State Board are governed by KRS 156.160, subsection (2).

What are the responsibilities of the state Commissioner of Education?

The Commissioner is the chief executive officer of the Department of Education and also Secretary to the State Board of Education. The Commissioner is responsible for implementing statutes enacted by the General Assembly and regulations adopted by the State Board.

Reference: The Commissioner's main duties are set out in KRS 156.148.

What are the responsibilities of the state Department of Education?

Under the Commissioner's direction and subject to State Board regulations, the Department has a wide range of responsibilities. Under KERA, its primary role will be to provide technical assistance and advice to people working at the district and school levels to improve Kentucky education. Among the Department's most important tasks related to school–based decision making are:

- **Assessing school and district performance**, including implementation of the new statewide outcome assessment program after it is developed by consultants to the State Board;
- **Helping schools and districts** with curriculum design, school administration and finance, computer and technology services, media services, community education, secondary vocational education, education for exceptional students, and professional development;
- **Research and planning**, including a statewide research and development effort to identify or develop the best educational practices to be used in the public schools of the Commonwealth;

- **Monitoring the management of school districts**, including administration and finance, implementation of state laws and regulations and student performance; and
- **Establishing regional training and service centers** mandated by KERA to train teachers, principals, administrators and others.
- **Implementing laws enacted by the General Assembly, regulations promulgated by the State Board for Elementary and Secondary Education and policies of the Education Professional Standards Board.**

References:
The responsibilities of the Department of Education are described in KRS 156.010, subsection 13.
State law requires the creation of regional service centers for school district employees by January 1, 1992 (KRS 156.095), and the creation of a Principals Assessment Center and a Superintendent's Training Program and Assessment Center by July 1, 1992 (KRS 156.105 and 156.111)

Is there a division in the Department of Education with special responsibility for assisting school councils?

Yes, the School–Based Decision Making Division is responsible for overseeing statewide implementation of school–based decision making. It can provide training for educators and council members on the new process and can also obtain answers to specific legal and practical questions about how to go about school–based decision making. The division is directed by Mr. Bernie Carr and can be reached at 502-564-4201.

Appendix A:
Text of KRS 160.345

Required adoption of school councils for school–based decision making—Composition of councils—Responsibilities—Exemption—Discretionary fund.—

(1) The term "teacher" for the purpose of this section means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school–based decision making in the district which shall include but not be limited to a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy shall also address and comply with the following:

(a) Each participating school shall form a school council which shall be composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The parent representatives on the council shall not be relatives of any employee of the school.

(b) The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be selected for one (1) year terms. The parent members shall be elected by the parent members of the parent teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. The principal or head teacher shall be the chair of the school council.

(c) The school council shall have the responsibility to set school policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and KRS 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

(d) All certified staff at a school may be participants in the school–based decision making. The staff shall divide into committees according to their areas of interest, such as, but not limited to, grouped grade levels, subject areas, and special programs. Each committee shall elect by a majority of the committee a chair, who shall serve for a term of one (1) year. The committee shall submit its recommendations to the school council for consideration.

(e) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(f) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(g) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(h) The school council shall determine which instructional materials and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school–based student support services, as determined by the school council.

(i) From a list of applicants recommended by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer–employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request.

(j) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment, curriculum development, alignment with state standards, technology utilization, and program appraisal within the local school board's policy;
2. Assignment of all instructional and non–instructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal; and

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation and supervision.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:
   (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and accounting and auditing;
   (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
   (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;
   (d) Professional development plans developed pursuant to KRS 156.095 and 156.0951;
   (e) Parent, citizen, and community participation including the relationship of the council with other groups;
   (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
   (g) Requirements for waiver of district policies;
   (h) Requirements for record keeping by the school council; and
   (i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon a favorable vote of a majority of the faculty at the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the State Board for Elementary and Secondary Education for exemption from the requirement to implement school-based

decision making, and the state board shall grant the exemption. Notwithstanding the provisions of this section, a local school district shall not be required to implement school–based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall develop sample guidelines to assist local boards in the development of their policies, and the department shall provide professional development activities to assist schools in implementing school–based decision making.

(7) A school that chooses to have school–based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school–based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the State Board for Elementary and Secondary Education for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two–thirds (2/3) of the faculty have agreed to the model.

(8) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council.

(9) There is hereby established a school council discretionary fund to be administered by the Department of Education and the department shall establish guidelines to be met to qualify for such funds. Each year that school councils are in existence the department shall distribute the funds appropriated to the fund to the schools participating in school–based decision making. The amount of funds received by each participating school shall be determined on a proportionate share basis by considering each participating school's total pupil enrollment. However, schools receiving funds from the Commonwealth school improvement fund under KRS 158.805 shall not be eligible to participate in this fund.

Appendix B
702 KAR 3:240: School council funding formula

RELATES TO: KRS 160.345

STATUTORY AUTHORITY: KRS 156.070, 160.345

NECESSITY AND FUNCTION: The State Board for Elementary and Secondary Education is directed by KRS 160.345 to adopt by administrative regulation, upon recommendation of the chief state school officer, a formula by which school district funds are allocated to each school council. This regulation implements that duty.

Section 1. Definitions.

(1) "Instructional supplies, materials and equipment" include the following codes, as set forth in the "Kentucky School Financial Accounting System," incorporated by reference in 702 KAR 3:120:
   (a) Library books—Codes: 251.01, 251.04, 252.01, 252.04;
   (b) Periodicals and newspapers—Codes: 253.01, 253.04, 254.01, 254.04;
   (c) Library supplies—Codes: 255.01, 255.03, 256.01, 256.03;
   (d) Audio visual material and equipment—Codes: 257.01, 257.04, 258.01, 258.04;
   (e) Supplementary books—Codes: 263.01, 263.04, 264.01, 264.04;
   (f) Teaching supplies to include paper products—Codes: 265.01, 265.02, 266.01, 266.02;
   (g) Instructional equipment other than computer laboratories—Codes: 231, 741.01, 871.01, 1272; and
   (h) Instructional travel (other than instructional personnel coded in Code 213)—Code: 267.

(2) Items not to be considered as an expenditure for the above purposes are technology related expenditures for computer laboratories and the initial inventory of a new school plant.

Section 2. The local school district board of education shall appropriate within the district budget in kindergarten through the 12th grade an amount not less than seventy-five (75) dollars per child enrolled (except kindergarten which shall be based on full-time equivalent enrollment), based upon previous end of year enrollment, in each school for the purposes of instructional materials, supplies and equipment. The school-based council shall determine the expenditure of these funds in each of the schools with councils.

Section 3. In schools where school-based councils do not exist, the central administration shall expend the seventy-five (75) dollars required for each child enrolled.

Section 4. Effective with the effective date of this regulation, school–based councils, for purposes of determining expenditures, shall be operational on or before May 1 preceding the school year or by a date agreed upon between the local board of education and the school–based council.

Section 5. This regulation shall be effective July 1, 1991, except as specifically designated otherwise.

Appendix C
Funding for Education

As school councils make their decisions about personnel, instructional materials, support services and the various policies they control, they may need to know more about both the resources the district has available and about the limitations that apply to different parts of that funding. Each school district's revenue includes local, state and federal money. Some of that money can only be spent for specific purposes, while other dollars can be used for many different things. This Appendix provides a brief overview of where a district's revenue comes from and the rules that apply to its use.

SEEK Funding Formula

As part of KERA, the General Assembly created the SEEK program: SEEK stands for "Support Education Excellence in Kentucky." This program is the most important source of Kentucky education funding, using a combination of state and local tax dollars.

Base Funding

Under SEEK, districts are guaranteed a ***base allotment*** per pupil. That allotment is multiplied by each district's average daily attendance to determine the district's total entitlement, and then that total is adjusted to consider four additional costs a district may face:

- the number of pupils at risk of educational failure in the district;
- the needs of exceptional children in the district, who need special services to overcome handicaps or learning difficulties;
- transportation costs; and
- home and hospital instruction for children who are unable to attend a regular school.

State law requires each district to collect local taxes in an amount equal to 30 cents for every 100 dollars of assessed property value. This local revenue can be raised entirely through property taxes or through a variety of taxes that yield the same amount.

The amount raised through these local taxes is then compared to the district's SEEK guaranteed funding. In some districts with a great deal of taxable property, this required local taxation will raise the full SEEK guaranteed amount. In less wealthy districts, the state makes up the remainder out of state revenues. The point of SEEK funding is to reduce the differences in resources between rich and poor districts.

The SEEK money is not earmarked for specific needs. For instance, a district that receives an allotment adjusted to reflect its at–risk enrollment is not legally obligated to use that money for at–risk students. However, districts will be held accountable for meeting the needs of all students and must plan accordingly.

Tier 1 and Tier 2 Funding

If districts need revenue above their base SEEK funding, they can raise that money through two voluntary programs.

Tier 1 involves a combined district and state effort. In order to participate, a district must raise local school property taxes above the required level of 30 cents per $100 dollars of property or use a variety of taxes to raise a similar amount of revenue. The state then calculates how much the district would be able to raise if it could collect that tax rate on property worth 150% of the state's average property assessment. If the district cannot raise that amount by taxing the property it actually does have, the state makes up the difference. This equalization process ensures that property poor and property rich districts can raise similar revenue through similar tax rates.

There is a limit to how much districts can raise this way: the combined Tier 1 local taxation and state equalization funding cannot be more than 15% of the total amount the district receives as SEEK base funding.

A district board vote to raise taxes under Tier 1 is not subject to reversal by public referendum.

Tier 2 funding is entirely local dollars and local effort. Through local taxes, districts may raise additional revenue, up to a limit equal to 30% of what they receive through SEEK base and Tier 1 funding. The 30% limitation prevents wide differences in per pupil spending between districts. A district board's decision to raise taxes under Tier 2 can be overturned by a public referendum.

Reference: The SEEK fund is established by KRS 157.310–157.440.

Other Local Funding

When districts need to build or renovate facilities, they can set additional taxes to raise the needed money. The revenue from such ***building taxes*** can only be used for those building needs.

Districts can also raise money by charging ***fees.*** For instance, private groups may be charged rent when they use a school auditorium or an athletic facility.

In some districts, students are also charged fees for textbooks and for participation in various school activities. Textbook fees must be waived for students receiving free lunches and reduced for students receiving reduced price lunches. In general, other fees must be waived for both free and reduced price lunch recipients. A State Board regulation provides that some kinds of fees need not be waived, but lawyers disagree about whether that regulation is legal.

References:
District taxing powers are governed by KRS 160.450–160.990.
Textbook fees and fee waivers are governed by KRS 157.110 and by 702 KAR 1.005, and discussed further on page 38 above.
Other fees and fee waivers are controlled by KRS 160.330 and regulated by 702 KAR 3:220, and discussed further on pages 50–51.

Other State Funding

The General Assembly has also budgeted money to be allocated to districts and spent for a number of specific purposes, as described below.

The state supplies districts with money to pay a percentage of their ***salary costs and debt payments.*** To receive this funding, districts will have to adopt certain policies specified by state law and agree to use the money only for the purposes for which it is provided.

Extended school services funding is mandated by KERA. This money will support extended school time for students who have difficulty achieving KERA's educational goals. This time can be provided before or after regular school hours, on weekends or during the summer. Each district will be eligible to receive some funds based on average daily attendance. Extra dollars are allocated to districts with additional need based on recent test scores, dropout rates and percentage of students receiving subsidized lunches. To receive the funds, districts must submit an application to the Department of Education describing how the extended services will be provided. Starting in fiscal year 1992, districts will also be able to apply for grants to try innovative approaches to these services, as described on page 80 below.

State textbook funds are allocated to districts on a per pupil basis. The money is held by the state and used to purchase books and related materials requisitioned by the district. Basal textbooks (those used on a daily or regular basis) must come from the State Textbook Adoption List, unless a waiver is granted by the State Board permitting use of a nonadopted book. A district may spend up to 35% of its allotment on materials other than basal textbooks.

Technology funds are currently being held in an escrow fund until the State Board for Elementary and Secondary Education, based on the advice of the Council for Education Technology, adopts a policy for expanding the use of computers and other educational technology in Kentucky schools. It appears clear that substantial technological resources will become available to schools. It is not yet clear how those items will be provided, how much discretion school councils will have about the types of equipment they receive or exactly when the funds will be distributed.

Remediation dollars are available to help students who fail to master basic skills during their first few years of regular classroom instruction. The money is directed to helping first and second grade students, and third graders may be included if resources are left over. To receive this money, districts must submit applications explaining how it will be spent and must comply with state regulations regarding what may be taught and the number of pupils to be assigned to each remediation staff member.

Gifted and Talented funds are available for students who need special programs to develop their unusual abilities.

School Food Service dollars are distributed to districts based on enrollment, and used in conjunction with federal breakfast and lunch funding.

During the next few years, the General Assembly may also opt to put money into the ***school council discretionary fund.*** KERA set up the framework for this fund, but the General Assembly did not provide any money for it during the 1990–91 or 1991–92 fiscal years. If the fund is activated, it will distribute money, in proportion to enrollment, to schools that implement school–based decision making. Schools that are receiving funding from the Commonwealth school improvement fund (described on page 81 below) will not be eligible for this money. The Department of Education will set guidelines for schools to qualify for participation.

References:
Extended school services are required by KRS 158.070 and regulated by 704 KAR 3:390.
Textbook funding is provided under KRS 157.110–158.190 and regulated under 702 KAR 1:005.
The State Council for Education Technology's work is regulated by KRS 156.660–156.670.
Remediation funding is governed by 704 KAR 3:380.
Gifted and talented funding is regulated by 704 KAR 3:285.
Food service funding is regulated by 702 KAR 6:010–6:090.
The School Council Discretionary Fund is created by KRS 160.345, subsection (9). See Appendix A, page 72.

Federal Funding

The United States government supplies Kentucky with grants to meet several kinds of special educational needs. In each case, the state is required to pass most of this money through to districts to serve needy students. The major programs are described below, along with a federal program that permits states to requisition books for legally blind students.

Chapter 1 of the Education Consolidation and Improvement Act provides dollars for special help for disadvantaged children. The state Department receives an annual allotment from the U.S. government and distributes it to districts. Each district is eligible for a share of the funds based on its enrollment of students from low income families. To receive that share, however, the district must submit an application to the state explaining how the money will be used and establishing that parents of the eligible children participated in planning the program. Once the money is received, it can only be used in the ways the application described. If school councils want to use the money other ways, the district's next application will need to be changed first.

The ***Chapter 1 migrant children*** program provides additional dollars to districts that serve children of migrant workers or former migrant workers. Like other Chapter 1 dollars, a district must apply to the state with a plan for using the money; the district receives funding based on its enrollment of eligible pupils, and must use the money as the application described. These dollars can now only be used for summer programs and advocates who help pupils obtain needed services.

Chapter 2 programs fund a variety of educational improvement efforts. Under the Kentucky State Plan, most of Kentucky's share of the money is distributed to districts based on the number of students in public schools and in participating private schools. Districts with a high percentage of students whose education requires extra spending (based on low income or sparse population) are eligible for an additional allotment. Districts must apply to receive the funds, but an application can cover plans for up to three years. Districts must use the money as the application describes. The state retains some of the money for a variety of special state programs, including the effective schools grants discussed below. This program was established by the federal Elementary and Secondary Improvement Amendments of 1988, and is sometimes referred to as "ESSIA" money.

Individuals with Disabilities Education Act Part B funds ("IDEA Part B") are distributed to districts based on the needs of their handicapped students and must be used to serve those students. Once again, the district is bound by the plan set forth in its annual application to the state to receive the funds for which it is eligible.

School lunches and breakfasts for needy students are paid for by the federal government. Each year, parents must fill out an application form if they want their children to benefit from the program. Depending on family income, students may receive meals either free or at a reduced price.

Textbooks for legally blind students are available under the Federal Act to Promote the Education of the Blind. This program supplies appropriate textbooks in braille or large type, recordings, educational aids and special equipment to eligible students. Under this program, neither the state nor the district receive any dollars: instead, the state submits requisition forms and receives materials of value equal to its share of the federal funds.

References:
Chapter 1 funding is provided under 20 USC 2701–2731. Funding for services to migratory children is provided under 20 USC 2781–2783 and regulated in Kentucky by 704 KAR 3:292.
Chapter 2 funding is provided under 20 USC 2911–2952, and regulated in Kentucky by 704 KAR 3:335.
IDEA Part B funding is governed by 20 USC 1400–1420, and regulated in Kentucky by the "Policies and Procedures for the Use of Individuals with Disabilities Education Act (IDEA) Part B Funds" adopted by the State Board in 707 KAR 1:015.
Federal school meal funding is provided under 42 USC 1751–1789, and regulated in Kentucky by 702 KAR 6:010–6:090.
The Act to Promote the Education of the Blind is 20 USC 101–106, and its textbook funding is regulated by 707 KAR 1:045.

Grants

In addition to the regular funding described above, schools and districts can apply to the state for a number of grants. Grant funds are available for several purposes, using state and federal dollars. Each grant has its own application process, eligibility standards, and method for determining which applicants will in fact receive available grant money.

Effective schools grants. The Kentucky Department of Education operates a special program designed to help schools and districts implement research–proven techniques for creating effective schools. Participating districts must pay some of the costs of the program, but other costs can be paid with grants from the state's federal Chapter 2 allocation.

State extended school services grants: If districts want to experiment with innovative ways to provide extended school services, they can apply for grants starting in fiscal year 1992. These grants will be awarded in addition to the standard extended service funding each district receives.

State Commonwealth School Improvement Fund grants are available to schools that fail to meet their threshold percentages of successful students, as discussed in Section 11 above. The State Advisory Committee for Educational Improvement will review grant applications, and the State Board will select the final grant recipients. These grants can be used for:

- development of sound and innovative approaches to improve instruction or management;
- implementing successful programs developed in other districts;
- cooperative instructional or management approaches to specific school educational problems;
- experimental programs to test concepts and applications being advanced as solutions to specific educational programs.

Until the end of the 1993–94 school year, schools will be eligible for grants from this fund if they are located in districts that have been found educationally deficient. Starting in the 1994–95 school year, schools will be eligible if they fail to meet their threshold percentages of successful students.

Writing grants. Small grants are available from the state for schools and districts that want to begin new programs that develop their students' writing skills.

Psychological service grants. For districts that have not had psychologists or psychometrists in the past, the state will temporarily pay half the salary for a person to provide these services. The purpose of the grants is to encourage districts to try these services, and perhaps provide full funding themselves when the state grant expires.

School counselor grants. These grants are substantially the same as those for psychological services, but provide half–funding to add counselors in districts that have not had them before.

Dropout prevention grants are available to districts with high percentages of dropouts. The grant application requires specific information on the services to be provided. As a result, districts may have limited flexibility about how to spend grants already awarded, and school councils may want to ask to be included in the planning of future applications.

The ***Ride to the Center for the Arts*** program reimburses districts for half the mileage and drivers' salary costs when students in grades 6–9 travel to the Kentucky Center for the Arts in Louisville. Application for these matching funds must be made by November 1 of the school year when the funds are to be used.

References:
Chapter 2 grants are provided under 20 USC 2911–2952 and 704 KAR 3:335.
Extended school services grants are mandated by KRS 158.070 and regulated by 704 KAR 3:390.
The School Improvement fund is established by KRS 158.805.
The writing grant program is established by KRS 158.775.
Dropout prevention grants are authorized by KRS 158.148 and awarded under 704 KAR 7:070.
The Ride to the Center for the Arts program is created by KRS 157.606 and awarded under 704 KAR 7:080.

Glossary

accreditation: a former state process for reviewing the program and resources of a school and determining whether minimum standards are met. KERA abolished the State Board's authority to create a mandatory state accreditation system. Some districts or schools may choose to seek accreditation from a voluntary agency.

adjunct instructor: person certified to teach a subject where there is a teacher shortage. These instructors have lower qualifications than teachers with regular certificates and can only be hired if no regularly certified person is available.

alternative certification program: program run by a local school district to prepare people to teach whose undergraduate degrees are not in teaching.

alternative education program: program designed to meet the learning needs of students who are unable to succeed in the regular program. A district that offers such a program can ask to have driver's licenses revoked for students who drop out of school or who are declared academically deficient.

basal textbook: a textbook in regular classroom use, organized to provide an ability–appropriate progression of information on a subject being studied. See Section 7, pages 36–40.

certificate: document stating that a person has the legally required qualifications for a specific type of position. Most professional positions in the public schools require a certificate.

Chapter 1: a federal law which provides dollars for special help for disadvantaged children. Specifically, it is the first chapter of the Education Consolidation and Improvement Act. It also contains special provisions and funding for migrant children. See **Appendix C**, page 79 above.

Chapter 2: a federal law which provides dollars for a number of educational improvements. It is part of the Elementary and Secondary School Improvement Amendments of 1988. See **Appendix C**, page 79 above.

classified employee: public school employee whose job does not require a state–issued certificate. Secretaries, janitors, bus drivers and cooks are examples of such employees.

classroom management techniques: strategies used to promote student conduct that permits effective learning. See **Section 8**, pages 41–44.

continuing education: see "extended school services."

corporal punishment: "deliberate infliction of physical pain by any means upon the whole or any part of a student's body as a penalty or punishment for student behavior." Corporal punishment is prohibited in Kentucky public schools by a regulation of the State Board for Elementary and Secondary Education that will be in effect until the close of the 1992 session of the General Assembly, unless the General Assembly acts to preserve the ban. See **Section 8**, page 42 above.

curriculum: the knowledge and skills a school intends to teach its students, often organized into an outline indicating the order in which topics will be taught. See **Section 4**, pages 11–16.

educational technology: a variety of equipment used to teach pupils, including computers, telecommunications, cable television, interactive video, film, low–power television, satellite communications, and microwave communications. In the future, such equipment will be provided through special state funding. See **Section 7**, page 40, and **Appendix C**, page 78.

equal access: the right to use school facilities on the same basis as other groups; particularly the right of religiously based student groups to use school facilities if non–religious student interest groups are permitted to do so. This right is protected by federal law. See **Section 5**, page 23.

exceptional children: defined in KRS 157.200(i) as "persons under twenty–one (21) years of age who differ in one (1) or more respects from average or normal children in physical, mental, learning, emotional, or social characteristics and abilities to such a degree that they need special educational programs or services for them to benefit maximally from the regular or usual facilities or education programs of the public schools in the districts in which they reside." This category includes gifted and talented children.

expulsion: disciplinary action excluding a student from attending school for an indefinite period. Under Kentucky law, only the district school board can expel a student, and the expulsion cannot continue beyond the beginning of the next school year. See **Section 8**, page 42.

extended school services: additional school time provided for students who need it to achieve KERA goals, and supported by special state funds. The time may be provided by extending the school day, week or year. See **Section 4**, page 16.

extracurricular programs: programs for which students do not receive credit toward graduation and which are not part of the school's official curriculum. See **Section 10**, pages 49–52.

family resource center: center to provide services to needy pupils and their families. KERA requires district boards to create such centers by the 1995–96 school year at or near each elementary and middle school where 20 percent of pupils or more are eligible for free school meals. See **Section 9**, page 45.

in service training: training provided to teachers during their regular work hours, often given on days set aside for the purpose.

Individuals with Disabilities Education Act: federal law requiring a free, appropriate education for children with handicaps. Part B of this law provides funds to support this education. See **Appendix C**, page 79.

instructional materials: any items a school uses to help students learn. See **Section 7**, pages 33–40.

instructional practices: techniques used by a school's staff to help students learn. See **Section 4**, pages 11–16.

KAR: The standard abbreviation of "Kentucky Administrative Regulations."

KERA: an abbreviation for "Kentucky Education Reform Act of 1990."

KRS: The standard abbreviation of "Kentucky Revised Statutes."

Kentucky distinguished educator: experienced, successful teacher or administrator selected for special recognition. Under KERA's statewide accountability system, some of these educators will be asked to assist schools where the percentage of successful students has declined. At schools in crisis, the distinguished educators will have additional powers. See **Section 11**, page 54.

Kentucky Administrative Regulations: Regulations passed by various administrative bodies in the state of Kentucky, to help carry out the laws passed by the General Assembly and signed by the Governor. If a reference mentions "702 KAR 3:240," it means Title 702 of Kentucky Administrative Regulations, Chapter 3, Section 240.

Kentucky Education Reform Act of 1990: The official title of House Bill 940 of the Kentucky General Assembly, which mandates major changes in how Kentucky schools will operate, including the institution of school–based decision making.

Kentucky Revised Statutes: The laws of Kentucky, as passed by the General Assembly and signed by the Governor. Thus, if a reference mentions "KRS 160. 345," it means Kentucky Revised Statutes, Chapter 160, Section 345.

local screening committee: special district committee set up to make recommendations on selection of a new superintendent. See **Section 12**, page 61.

mainstreaming: the practice of placing students with handicaps in regular classrooms whenever possible, as required by federal law.

model curriculum framework: an outline tied to KERA's goals, outcomes and assessment strategies to be issued by the State Board for Elementary and Secondary Education by July 1, 1993. The framework is to provide examples, but not requirements, for schools and districts to use in developing their own curricula. See **Section 4**, page 12.

new teacher internships: new teachers and teachers from out–of–state with less than two years successful teaching experience must spend one year in an internship program which provides them with supervision, assistance and assessment to develop their teaching skills.

Open Meetings Law: Kentucky law protecting rights of citizens and the press to attend meetings of government agencies, including school councils, school committees, district school boards, and many other bodies. See **Section 2**, pages 5–6.

Open Records Law: Kentucky law providing for rights of citizens to review records of government agencies, including school councils, district school boards, and many other bodies. See **Section 2**, page 7.

Office of Education Accountability: an office created by the General Assembly to monitor the implementation of education reform. See **Section 13**, page 63.

primary school program: an ungraded approach to early elementary school, in which students in mixed age groups will study at their own pace from kindergarten until ready to enter fourth grade. KERA requires all schools to implement the program by the 1992–93 school year, and some may start it in 1991–92.

remediation: special education services provided for children who are deficient in basic skills. In Kentucky, the state provides remediation funds for children in grades 1 through 3 who have been identified as needing extra help. See **Appendix C**, page 78.

SEEK: abbreviation for "Support Education Excellence in Kentucky."

school–based decision making: a process for running schools which gives important powers to staff and parents at each school.

school council discretionary fund: a fund permitted by KERA, but currently without any money in it. If the General Assembly chooses to provide funding in the future, money would be allocated to each school that implements school–based decision making. See **Appendix C**, page 78.

school improvement fund: a state program providing grants for improvement efforts at schools that fail to meet their threshold requirements. See **Appendix C**, page 81.

school lunch program: program offering free or reduced price meals to students from low income families. See **Appendix C**, page 80.

School Reward Fund: money allocated by the General Assembly to pay rewards to schools that exceed their threshold percentages of successful students. See **Section 11**, page 55.

State Multiple List: list of textbooks that have been approved by the State Textbook Commission. These books may be purchased with state funds and used as basal textbooks in Kentucky classrooms. See **Section 7**, pages 36–40.

student support services: services a school provides to its pupils which help students be ready to learn; services other than instruction itself. See **Section 9**, pages 45–48.

supplementary textbook: a textbook used occasionally in a classroom; not a basal textbook. Supplementary textbooks need not be on the state textbook adoption list. See **Section 7**, pages 36–40.

Support Education Excellence in Kentucky: The main program for funding Kentucky public schools. See **Appendix C**, pages 75–76.

suspension: disciplinary action forbidding a student from attending school for a limited period of time. Under Kentucky law, a school principal may suspend a student if certain required procedures are followed. See **Section 8**, page 42.

Tier 1 funding: a program allowing districts to raise revenue above their SEEK base level and providing state funds to ensure that rich and poor districts can raise similar amounts through similar tax effort. See **Appendix C**, page 76.

Tier 2 funding: a program permitting districts to raise revenue above both the SEEK base level and the Tier 1 limits, but without state matching funds. See **Appendix C**, page 76.

USC: The standard abbreviation for "United States Code"

United States Code: The laws of the United States, passed by the Congress and signed by the President. If a reference mentions 15 USC 2701, it means Chapter 15 of the United States Code, Section 2701.

youth services center: center to provide services to needy students over age 12 and their families. KERA requires district boards to create such centers by the 1995–96 school year at or near each secondary school where 20 percent of pupils or more are eligible for free school meals. See **Section 9**, page 45.

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Goals for Kentucky Schools

(a) Schools shall expect a high level of achievement of all students.

(b) Schools shall develop their students' ability to:

1. Use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives;
2. Apply core concepts and principles from mathematics, the sciences, the arts, the humanities, social studies, and practical living studies to situations they will encounter throughout their lives;
3. Become a self sufficient individual;
4. Become responsible members of a family, work group, or community including demonstrating effectiveness in community service;
5. Think and solve problems in school situations and in a variety of situations they will encounter in life; and
6. Connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various media sources.

(c) Schools shall increase their students' rate of school attendance.

(d) Schools shall reduce their students' dropout and retention rates.

(e) Schools shall reduce physical and mental health barriers to learning.

(f) Schools shall be measured on the proportion of students who make a successful transition to work, post-secondary education and the military.

Source: Kentucky Revised Statues, Section 158.6451.

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